



# California Regulatory Notice Register

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OCTOBER 17, 2003

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

#### NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the Office of Statewide Health Planning and Development, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Office of Statewide Health Planning and Development proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment is due to organizational changes of moving from one unit to another (no change in duty statement) which includes adding new positions which are now designated and makes other technical changes to reflect the current organization structure of the Office. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than December 1, 2003, or at the conclusion of a public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than October 17, 2003, by contacting the Contact Person set forth below.

The Office of Statewide Health Planning and Development has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments

are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Office of Statewide Health Planning and Development has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Office of Statewide Health Planning and Development must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons that the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Jeanette Greer  
1600 9<sup>th</sup> Street, Room 350  
(916) 653-0746  
[jgreer@oshpd.state.ca.us](mailto:jgreer@oshpd.state.ca.us)

### TITLE 2. STATE ALLOCATION BOARD

#### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES  
TO AMEND THE FOLLOWING REGULATION  
SECTIONS, ALONG WITH ASSOCIATED  
FORMS, TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, RELATING TO  
LEROY F. GREENE SCHOOL FACILITIES ACT  
OF 1998

PROPOSED AMENDMENTS TO REGULATION  
SECTIONS: 1859.2, 1859.20, 1859.21, 1859.74.2,  
1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3,  
1859.79, 1859.81.1, 1859.83, 1859.107, AND  
1859.145

**PROPOSED AMENDMENTS TO:**

*Eligibility Determination*, Form SAB 50-03 (Revised 01/03), Referenced in Regulation Section 1859.2

*Application for Funding*, Form SAB 50-04 (Revised 02/03), Referenced in Regulation Section 1859.2

*Fund Release Authorization*, Form SAB 50-05 (Revised 02/03), Referenced in Regulation Section 1859.2

*Application for Joint-Use Funding*, Form SAB 50-07 (Revised 01/03), Referenced in Regulation Section 1859.2

*Application for Preliminary Apportionment*, Form SAB 50-08 (Revised 01/03), Referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, and associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

**AUTHORITY AND REFERENCE CITATIONS**

The SAB is proposing amendments to various regulation sections under the authority provided by Sections 17070.35, 17072.13, 17074.10 and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17070.35, 17070.63, 17070.71, 17072.12, 17072.18, 17072.20, 17072.33, 17073.25, 17074.10, 17074.15, 17074.16, 17074.26, 17074.56, 17076.10, 17077.10, 17077.40, 17077.42, 17077.45, 17078.10, 17078.24 and 17251 of the Education Code.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The Leroy F. Greene School Facility Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. The current SFP regulations are being amended to provide guidance and direction to

school districts for purposes of filing applications for new construction and modernization while maintaining on-going program operation and integrity. They are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments provide an additional specific term essential to these regulations and expand the definition of a School District.

Existing Regulation Section 1859.20 sets forth the forms that shall be submitted for purposes of determining eligibility for new construction and modernization projects. The proposed amendment makes a clarifying, minor non-substantive change.

Existing Regulation Section 1859.21 sets forth the form that shall be submitted for purposes of seeking funding for new construction and modernization projects. The proposed amendment makes a clarifying, minor non-substantive change.

Existing Regulation Section 1859.74.2 provides State funding for up to 50 percent of the school district's cost of the site plus the response action costs associated with hazardous substances but not to exceed the appraised value of the site. The proposed amendments allow for increased State funding for purposes of toxics clean-up on a site, and specify certain conditions for purposes of exceeding the maximum toxic funding.

Existing Regulation Section 1859.74.3 establishes the criteria for school districts seeking to provide new facilities on leased sites that will require hazardous waste removal. The proposed amendments allow for increased State funding for purposes of toxics clean-up on a leased site, and specify certain conditions for purposes of exceeding the maximum toxic funding.

Existing Regulation Section 1859.74.4 provides specific criteria for school districts seeking funding for hazardous waste removal on existing school sites. The proposed amendment provides that the costs associated with the evaluation and response action shall be available to school districts in advance of the submittal of the construction funding application.

Existing Regulation Section 1859.75 establishes the certification requirements for district-owned sites for the purpose of receiving site acquisition grant funds. The proposed amendment allows for increased State funding for purposes of toxics clean-up on a district-owned site.

Existing Regulation Section 1859.75.1 allows requests for separate site acquisition apportionments by school districts that have an environmental hardship, even if not a financial hardship school district. The proposed amendments allow for increased State funding for purposes of toxics clean-up on a site, and specify certain conditions for purposes of exceeding the maximum toxic funding.



Existing Regulation Section 1859.78.3 establishes specific funding amounts per-pupil for modernization applications for severely disabled and non-severely disabled individuals with exceptional needs. The proposed amendments provide new per-pupil funding amounts for modernization applications filed by the California Department of Education (CDE) on behalf of the California Schools for the Deaf and Blind. The new per-pupil amounts are 100 percent State funded, however, the financial hardship provisions do not apply.

Existing Regulation Section 1859.79 establishes the required amount for a school district's matching share for modernization projects. The proposed amendment changes the application filing date for modernization projects from March 15, 2002 to April 29, 2002. This date change signifies that modernization applications filed on or before April 29, 2002 are considered 80/20 projects and modernization applications filed after April 29, 2002 are considered 60/40 projects.

Existing Regulation Section 1859.81.1 specifies the limits for separate grant amounts for those school districts meeting the financial hardship requirements. It also provides for an off-set in certain circumstances and establishes the procedure for a school district seeking a separate site and/or design apportionment. The proposed amendments allow for increased State funding for purposes of toxics clean-up on a site, and specify certain conditions for purposes of exceeding the maximum toxic funding. Further, the proposed amendments change the application filing date for modernization projects from March 15, 2002 to April 29, 2002. This date signifies that modernization applications filed on or before April 29, 2002 are considered 80/20 projects and modernization applications filed after April 29, 2002 are considered 60/40 projects.

Existing Regulation Section 1859.83 provides an additional grant amount to the SFP New Construction and Modernization Grants, as a result of unusual circumstances that created excessive project costs beyond the control of the school district. The proposed amendments allow for a school district that meets the specified criteria to request an excessive cost hardship grant for its new construction project based on 75 percent or less of the CDE recommended site size for the project. The proposed amendments also increase the urban adjustment on a sliding scale basis and redefines qualifying projects to those that would be impacted by urban construction costs for projects on sites that are 60 percent or less of the CDE recommended site size for the actual project. Further, the proposed amendments change the application filing date for modernization projects from March 15, 2002 to April 29, 2002. This date signifies that modernization applications filed on or before April 29,

2002 are considered 80/20 projects and modernization applications filed after April 29, 2002 are considered 60/40 projects.

Existing Regulation Section 1859.107 provides for the withdrawal and re-submittal of applications in order to benefit from changes in the law or regulations. The proposed amendment changes the application filing date for modernization projects from March 15, 2002 to April 29, 2002.

Existing Regulation Section 1859.145 sets forth the preliminary apportionment calculation. The proposed amendments increase the urban adjustment on a sliding scale basis and redefines qualifying projects to those that would be impacted by urban construction costs for projects on sites that are 60 percent or less of the CDE recommended site size for the actual project.

Existing Form SAB 50-03 is used to determine the school district's eligibility for new construction or modernization projects. The proposed amendments allow the CDE to file eligibility applications for modernization on behalf of the California Schools for the Deaf and Blind and reflect a minor non-substantive change.

Existing Form SAB 50-04 is used when a school district is seeking funding for a new construction or modernization project. The proposed amendments incorporate: 1) the CDE's ability to file funding applications for modernization on behalf of the California Schools for the Deaf and Blind; 2) evaluation and response action/toxic funding; 3) urban allowance when acquiring a new site in an impacted area; and 4) labor compliance program certification.

Existing Form SAB 50-05 is used and submitted by school districts in order to release apportioned funds to the appropriate county treasury. The proposed amendments incorporate: 1) the trigger for a timely fund release for response action funding, and 2) labor compliance program certification.

Existing Form SAB 50-07 is used by school districts to request funding for Joint-Use Projects (Types I, II, and III). The proposed amendment incorporates a labor compliance program certification.

Existing Form SAB 50-08 is used by school districts to file for a Preliminary Apportionment under the Critically Overcrowded Schools program once the SAB has determined or adjusted the school district's eligibility for new construction funding. The proposed amendment incorporates a labor compliance program certification.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500)

of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### **ECONOMIC IMPACT**

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### **EFFECT ON SMALL BUSINESSES**

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

#### **SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than December 1, 2003 at 5:00 p.m. The

express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulation Coordinator

Mailing Address: Office of Public School  
Construction  
1130 K Street, Suite 400  
Sacramento, CA 95814

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

Fax No.: (916) 445-5526

#### **AGENCY CONTACT PERSONS**

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

#### **ADOPTION OF REGULATIONS**

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

#### **SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE**

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose of which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

## TITLE 2. STATE ALLOCATION BOARD

### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1859.51 AND 1859.105, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request

for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing amendments to two regulation sections under the authority provided by Sections 17070.35 and 17072.13 of the Education Code. The proposals interpret and make specific reference to Sections 17052, 17070.35, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17076.10, and 17077.40 of the Education Code.

#### INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facility Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. The current SFP regulations are being amended to provide consistency and clarifying language changes, as follows:

Existing Regulation Section 1859.51 explains how new construction baseline eligibility will be adjusted and expands the components by which a new construction project's baseline eligibility will be adjusted. This Section also provides for an adjustment for new construction projects based on special day class loading standards, and provides a mechanism for adding pupils back into the eligibility baseline lost as a result of the SAB finding a material inaccuracy. The proposed amendments incorporate eligibility "lock-in" provisions pursuant to Chapter 935, Statutes of 2002.

Existing Regulation Section 1859.105 requires the SAB to conduct an SFP project progress audit. It explains the scope of the audit, and establishes the criteria on which a determination of substantial progress is made. It also provides that a review shall be conducted and sets forth criteria of acceptable evidence assuring substantial progress has been made towards the completion of a project. Further, this Section provides other mechanisms for meeting substantial progress on separate design phases of a project. The proposed amendment allows the SAB to



address case-by-case considerations to determine if substantial progress has been made for a separate site grant based on other evidence satisfactory to the SAB.

#### **IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### **ECONOMIC IMPACT**

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other state.
- There will be no impact in the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### **EFFECT ON SMALL BUSINESSES**

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

#### **SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than December 1, 2003 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulation Coordinator

Mailing Address: Office of Public School  
Construction  
1130 K Street, Suite 400  
Sacramento, CA 95814

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

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#### **ADOPTION OF REGULATIONS**

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.



### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

### RULEMAKING FILE

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4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose of which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

## TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 2676, 2681, 2735, and 2783 of Title 3 of the California Code of Regulations pertaining to commercial feed.

A public hearing concerning the proposed action will be heard on December 4, 2003, at 10:00 a.m., at the Red Lion Hotel, 1612 Sisk Road, Modesto, CA 95350.

A representative of the Department of Food and Agriculture will preside at the hearing. Any interested person may appear and be heard. Persons who wish to speak are requested to register prior to the hearing. Registration will be conducted at the location of the hearing from 9:00 a.m. to 10:00 a.m. Persons will be heard in the order of their registration. The presiding officer may limit the time for each presentation in order to allow all interested persons an opportunity to speak. Any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard.

Any interested person who does not wish to speak may present written statements to the presiding officer at the hearing, or may submit written statements on or before December 1, 2003 to the agency officer named below.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry by ensuring in every way possible a clean and wholesome supply of meat, milk, and eggs for the benefit of the consumer. (Food and Agricultural Code, Sections 407 and 14901). Existing law provides that the Secretary may adopt regulations as he deems necessary to circumscribe and prevent adulterated feed to protect California's agricultural industry and the consumer (Food and Agricultural Code 14902).

The amendment of Section 2676, revises subsection (c) to indicate that only premises that contain more than 272.4 mg/lb added selenium are required to maintain a daily inventory record.

The amendment of Section 2681 corrects subsection (a) to indicate that commercial feed containing prohibited mammalian tissues is not approved for ruminant animals.

The amendment of Section 2735 revises the following subsections:

Subsection (a) is being revised to subsections (a) and (b) to clarify certification and aflatoxin B1 testing requirements for cottonseed products originating outside of California. The new subsection (a) requires that all cottonseed products originating outside of California, regardless of their state of origin's requirement for aflatoxin B1 testing, be analyzed for aflatoxin B1 and comply with a 20 ppb tolerance. All shipments shall be accompanied by a Certificate of Movement and an analysis certificate reporting aflatoxin B1, and shall guarantee the percent ash, crude fat, protein, fiber, free fatty acids in the oil, moisture,

and foreign material. The new subsection (b) contains existing language for the shipment of cottonseed products that do not meet the aflatoxin B1 tolerance.

Subsection (b) is revised to require that documentation for shipment by railcar, truck, ship, barge, air transport, or other form of transportation of cottonseed products be "affixed to, or" accompany the lot to the purchaser.

Subsection (c) is revised to require that laboratory certifications for cottonseed products originating in Riverside and Imperial Counties shall be "affixed to, or accompany the cottonseed products to the purchaser."

Subsection (d) is being deleted to clarify and remain consistent with the revised appeal process stated in Section 15080, Title 3, Food and Agricultural Code.

Subsection (e) is revised by deleting Room A-472 to reflect a change in the mailing address.

The amendment of Section 2783 revises subsection (j) to establish the additional quality standards of percent free fatty acids in the oil, moisture, and foreign materials in cottonseed, to better define whole cottonseed; subsection (k) is added to define prime whole cottonseed.

#### **COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Secretary of the Department of Food and Agriculture has determined that Sections 2675, 2676, 2681, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2799, 2801 and 2802 do not impose a mandate on local agencies or school districts.

#### **FISCAL IMPACTS**

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings to any state agencies and no costs or savings in federal funding to the State will result from the proposed action.

#### **EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

#### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed action will not have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

#### **ALTERNATIVES CONSIDERED**

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department proposes to amend Sections 2676, 2681, 2735, and 2783 pursuant to the authority vested by Sections 407 and 14902 of the Food and Agricultural Code of California.

#### **REFERENCE**

The Department proposes to amend Sections 2676, 2681, 2735, and 2783 to implement, interpret and make specific Sections 14903, 15011, 15031, 15041, 14992 of the Food and Agricultural Code.

#### **EFFECT ON SMALL BUSINESSES**

The amendment of these regulations may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: (a) Dr. Stephen Beam, Acting Program Supervisor; (b) back-up for Dr. Beam is Maryam Khosravifard, Associate Environmental Research Scientist; and (c) questions of a technical nature may be directed to Michael Davidson, Program Specialist. All of the above persons are located at the Department of Food and Agriculture, Division of Inspection Services, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Sacramento, California 95814, phone (916) 445-0444. Written comments may be sent via fax to (916) 445-2171 or e-mail to [mkhosrav@cdfa.ca.gov](mailto:mkhosrav@cdfa.ca.gov).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request or the Internet at <http://www.cdffa.ca.gov/newsinfo/regulations.html>. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

#### FINAL STATEMENT OF REASONS AND INTERNET ACCESS

The final statement of reasons, when available, can be obtained from the agency contact person or the Internet at

<http://www.cdffa.ca.gov/newsinfo/regulations.html>.  
Documents pertaining to this rule making action may be accessed at  
<http://www.cdffa.ca.gov/newsinfo/regulations.html>.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (herein after referred to as "Department") is proposing to take the action described in the Informative Digest.

A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person **on or before 5:00 p.m. December 1, 2003**.

Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be

available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 407 and 10610 of the Food and Agricultural Code, and to implement, interpret or make specific section 10610 of the Food and Agricultural Code, the Department is considering adding Article 10, and section 797.5 to Chapter 2, Division 2, of Title 3 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Food and Agricultural Code section 9561, authorizes the Department to prevent or eradicate any contagious, infectious, or transmissible disease which affects domesticated animals within the state. Sections 9562 and 9570 authorize the State Veterinarian to order the quarantine of diseased animals and restrict movement of infected animals or animal products to prevent the spread of illness to humans or animals.

Assembly Bill 1782 (Florez, Ch. 425, Stats. 2000), added section 10610 to the Food and Agricultural Code. This section authorizes the Department to adopt regulations to control and eradicate cattle diseases, including bovine trichomonosis, through limitations on movement, diagnostic testing, vaccinations, or other appropriate methods of treatment and control, and to appoint an advisory task force.

This proposal pertains to the cattle health advisory task force requirements currently in existing section 820.7 of Article 12, Chapter 2, Division 2, of Title 3, of the California Code of Regulations. This proposal establishes the task force requirements under its own article to specify the role of the task force, the terms of appointment of the members, and the compensation to members for task force activities.

#### FISCAL IMPACT STATEMENTS

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that this proposed regulatory action would not result in any significant statewide adverse economic impact directly affecting California



businesses, including the ability of California businesses to compete with businesses in other states. This proposal establishes requirements for individuals to voluntarily participate in a task force to advise the Department on the control or eradication of cattle diseases in California.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

This regulation will not have any adverse economic impact on small businesses. This proposal establishes requirements for individuals to voluntarily participate in a task force to advise the Department on the control or eradication of cattle diseases in California.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

#### INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, California 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

#### CONTACT PERSONS

Inquires concerning the substance of the proposed regulations are to be addressed to the following:

Name: Nancy Grillo, Associate Analyst  
Address: Department of Food and  
Agriculture  
Animal Health and Food  
Safety Services  
1220 N Street, Room A-114  
Sacramento, CA 95814

Telephone No.: (916) 651-7280

Fax No.: (916) 653-4249

E-mail address: [ngrillo@cdfa.ca.gov](mailto:ngrillo@cdfa.ca.gov)

The backup contact person is:

Name: Thami Rodgers,  
Associate Analyst  
Address: Department of Food and  
Agriculture  
Animal Health and Food  
Safety Services  
1220 N Street, Room A-114  
Sacramento, CA 95814

Telephone No.: (916) 698-3276

Fax No.: (916) 653-4249

E-mail address: [trodgers@cdfa.ca.gov](mailto:trodgers@cdfa.ca.gov)

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Nancy Grillo, Associate Analyst  
Address: Department of Food and  
Agriculture  
Animal Health and Food  
Safety Services  
1220 N Street, Room A-114  
Sacramento, CA 95814

Telephone No.: (916) 651-7280

Fax No.: (916) 653-4249

E-mail address: [ngrillo@cdfa.ca.gov](mailto:ngrillo@cdfa.ca.gov)

#### WEBSITE ACCESS

Materials regarding this proposal can be found at  
<http://www.cdfa.ca.gov>



## TITLE 4. DEPARTMENT OF TRANSPORTATION

### NOTICE OF PROPOSED RULEMAKING OUTDOOR ADVERTISING REGULATIONS

#### TO ALL INTERESTED PERSONS:

The California Department of Transportation ("Department") proposes to adopt the proposed regulations after considering all comments, objections and recommendations regarding the proposed action. Following the public hearing and comment period, the proposal may be adopted substantially as set forth without further notice.

#### PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m. on December 1, 2003, at 1120 N Street, Room 1450, Sacramento, California. The building is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on December 1, 2003. The Department will consider only comments received at the Department by that time. Submit comments to:

Joel Ibarra  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814

#### AUTHORITY AND REFERENCE

Business and Professions Code sections 5250 and 5415 authorize the Department to adopt the proposed regulatory actions which would implement, interpret or make specific sections 5205, 5216 5223, 5225, 5251, 5272, 5273, 5273.5, 5301, 5302, 5354, 5358, 5360, 5400, 5405, 5408, 5440, 5463, 5482, 5484 and 5485 of the Business and Professions Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to adopt section 2444 in Title 4 of the California Code of Regulations and to amend sections 2241, 2242, 2243, 2244, 2245, 2250, 2270, 2271, 2272, 2300, 2401, 2422, 2423, 2424,

2425, 2426, 2441, 2442, 2443, 2505, 2507, 2508, 2511 and 2512 in Title 4 of the California Code of Regulations.

Business and Professions Code sections 5250 and 5415 authorize and require the Department to promulgate regulations to enforce the Outdoor Advertising Act (Business and Professions Code sections 5200 et seq.) consistent with national standards. The Outdoor Advertising Act and national standards provide specific requirements and restrictions concerning the specifications of outdoor advertising displays and the conduct of outdoor advertising activities, including licensing and permitting requirements. Moreover, there is statutory authority that concerns violation and enforcement provisions related to displays, permits and licenses. The existing regulations were enacted in 1978 and later amended in 1999 to implement State statutory and Federal statutory and regulatory authority.

The proposed regulatory action will implement the Outdoor Advertising Act and national requirements concerning the placement of outdoor advertising, conduct of outdoor advertising activities, administration of permit and licensing requirements, violations and the enforcement process. Moreover, this regulatory action updates language and terminology used by the Department and the industry.

Section 2241 adds a formal administrative review process to Department's permitting, licensing, and enforcement decisions, reducing litigation expenses, insuring more consistent decisions, and expediting decision making.

Section 2242(h) reflects change in Department terminology with no substantive change.

Section 2243 provides a technical change deleting references to Code sections not dealing with on-premise displays.

Section 2244 clarifies that Redevelopment Agency must confirm project boundaries and qualifying businesses for "Redevelopment Displays". This will result in considerable savings of time to make these determinations and insure no confusion between the local Redevelopment Agency and the Department.

Section 2245 provides a technical change with clarifying language on penalties for "Redevelopment Displays" not obtaining extensions after initial 10 year period.

Section 2250 provides a technical change relating to change of Department's name in 1973.

Section 2270 clarifies status of "tri-vision signs" as a changeable message sign; this will end years of changing and inconsistent enforcement.

Section 2271 clarifies that standards for destroyed or damaged displays apply to all Displays and that the appeal provisions of section 2241 apply to such determinations.

Section 2272 clarifies that standards for abandoned displays apply to all Displays and that the appeal provisions of section 2241 apply to such determinations.

Section 2300 reflects changes in the Code of Federal Regulations and will incorporate the Code of Federal Regulations by reference.

Section 2401 adds requirement that an activity that does not have necessary state or local business licenses or permits will not qualify as a commercial or industrial activity for the purposes of the Act, making such determinations easier and more consistent.

Section 2422 changes implementing new requirement that local agencies must approve outdoor advertising permits as required by 2002 legislation (SB 1480), now found at Section 5354 of the Business and Professions Code.

Section 2424 changes implementing 2002 legislation (SB 1480) allowing permit fees to be increased to reflect Department's actual expense, but to \$100 per permit and specifying appeal rights under amended section 2241 for determinations revoking permits for non-compliance with this section.

Section 2425 adds right to appeal under amended section 2241 for parties disputing the Department's determination regarding permit transfers. Currently, the only remedy in such disputes is legal action.

Section 2426 modifies retention period of revocation notices from five years to one year to ease retention burdens.

Section 2427 establishes parameters for cities seeking relocation permits.

Section 2441 modifies to add new penalty requirements enacted in 2002 legislation (SB 1480, now found at Business and Profession Code section 5485); adds right to appeal violation notices under section 2241 and clarifies appropriate party to serve notices of violations.

Section 2442 specifies aspects of violation notices that are subject to appeal under amended section 2241 to standardize appeal procedures.

Section 2443 adds references consistent with 2002 legislation (SB 1480, now found at Business and Professions Code section 5354) regarding revocation of outdoor advertising permits and adds appeal rights under amended section 2241 for action under this section.

Section 2444 is a new section specifying causes for revocation of an outdoor advertising license. While the Code has provided the Department could revoke a license since the 1930's, no regulatory standards have ever been adopted. This will correct that oversight.

Section 2505 contains technical amendments to add current Departmental terminology, clarifies the time to commence plantings on a new segment to conform with current Department practice and allows notices to

be placed on Landscape Architect's web page rather than only written copies. This brings this 1978 regulation into conformance with current Department practices.

Section 2507 contains amendments regarding median planting to implement 2002 legislation (SB 1480, now found at Business and Professions Code section 5216. The reference to Glen Anderson Freeway is deleted to conform to Court decision.

Section 2508 contains amendments regarding median planting to implement 2002 legislation (SB 1480; now found at Business and Professions Code section 5216).

Section 2511 provides amendments to clarify the term "two years" as to referring to two "fiscal" years to conform to Department practice and adds provisions regarding "catastrophic event" to reflect current diseases and blights which may result in wide-spread plant deaths that will overwhelm the capacity of the Department to replace in a normal time frame.

Section 2512 provides an amendment to clarify that the existing appeal process regarding determinations are now subject to new appeal provisions of amended section 2241.

Section 2513 provides a non-substantive change to correct a reference.

In conclusion, this regulatory action proposes to amend and adopt regulations in Title 4, Division 6 of the California Code of Regulations for consistency and to effectively serve the Department and the public.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

##### *The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that at representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Adoption of this regulatory action will not:

- (1) create or eliminate jobs within the state of California;
- (2) create new businesses or eliminate existing businesses within the state of California; or
- (3) affect the expansion of businesses currently doing business within the state of California.

Significant effect on housing costs: None.

#### ***Small Business Determination***

The Department has determined that the proposed regulatory action may affect small businesses.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to presents statements or arguments with respect to alternatives to the proposed regulatory action at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the proposed regulatory action may be directed to:

Joel Ibarra  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814  
Telephone: (916) 653-3042; CALNET 453-3042

James Arbis  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814  
Telephone: (916) 654-6413; CALNET 464-6413

Questions on the substance of the proposed regulatory action may be directed to Mr. Ibarra.

Please direct requests for copies of the proposed text (the "express terms") of the regulatory action, the initial statement of reasons, the modified text of the regulatory action, if any, or other information upon which the rulemaking is based to Mr. Ibarra at the above address.

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting Joel Ibarra at the address or phone number listed above.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to Joel Ibarra at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Ibarra at the above address.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Department's website at [www.dot.ca.gov/oda](http://www.dot.ca.gov/oda).

### **TITLE 5. COMMISSION ON TEACHER CREDENTIALING**

#### **DIVISION VIII OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS**

#### **PROPOSED AMENDMENTS OF SECTION 80049 AND DELETION OF SECTIONS 80632, 80632.1, 80632.2, 80632.3, 80632.4, AND 80632.5 PERTAINING TO PUPIL PERSONNEL SERVICES**

#### **NOTICE OF PROPOSED RULEMAKING**

The California Commission on Teacher Credentialing proposes to amend regulatory action described



below after considering all comments, objections and recommendations regarding the proposed actions.

### INFORMATIVE DIGEST

#### Summary of Existing Laws and Regulations

Education Code § 44252 and § 44266 establish the minimum requirements and the general authorizations for the Pupil Personnel Services Credentials. Sections 80049, 80632, 80632.1, 80632.2, 80632.3, 80632.4, and 80632.5 of Title 5 provide the specific requirements and authorizations for these credentials.

#### POLICY STATEMENT OVERVIEW

After hearing from the California Legislature through several initiatives, the California Commission on Teacher Credentialing appointed a 25-member advisory panel to make recommendations concerning the most appropriate competencies for pupil personnel service (PPS) providers. After two years of data collection and other collaborative efforts, the advisory panel developed recommendations that were adopted by the Commission. From those efforts, California colleges and universities will be provided direction through these regulations as they develop course work and field experiences in their professional preparation programs for school counselors, school psychologists, school social workers and child welfare and attendance providers. In each of these credential areas, the national norms were recommended.

#### **Reports and Other Data Relied Upon in Preparing Regulations**

The following reports and data were relied upon in preparing these regulations:

- Standards and other requirements from other state credentialing agencies as well as from other colleges and universities throughout the United States
- Survey questionnaire results
- Results from focus group meetings held throughout the state
- Reports from professional organizations related to pupil services
- *Toward a State of Esteem*

The following California Legislation:

- AB 1264 (Martinez—1993) “Partnerships with Parents”
- SB 2460 (Green—1990) “Safe School Environments for Learners”
- AB 2264 (Andal—1993) “Commission Leadership Role in Addressing School Violence”
- AB 3188 (House—1996) “School Psychologist Field Experience”

#### **Documents Incorporated by Reference**

None

#### AUTHORITY AND REFERENCE

Education Code Section 44225 authorizes the Commission to adopt the proposed action which will implement, interpret or make specific Sections 44252 and 44266 of the Education Code and govern the procedures of the Commission.

#### **Disclosures Regarding the Proposed Actions**

The Commission has made the following initial determinations:

Cost or Savings to Any State Agency: The Commission staff and advisory panel members review initial preparation program documents at no cost other than per diem for advisory panel members. California colleges and universities that offer PPS Credential Programs must modify their program syllabi to address the new competencies and submit them to the Commission for approval. A rough estimate would be approximately \$1,000.00 in staff time, typing, printing and postage for mailing.

Mandated Costs to Local Agencies or School Districts: These proposed regulations will not impose a mandate on local agencies or school districts, or a mandate which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Other Non-Discretionary Costs or Savings Imposed Upon Local Agencies: None

Cost or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons: Costs to prospective Pupil Personnel Services (PPS) credential candidates would be whatever tuition and fees charged by the college or university offering the program. The impact on a credential candidate who might have to take two additional classes for example, could mean an extra semester. A worse case scenario could mean that the credential candidate would have to attend summer school for one summer. In that case, the cost for two classes in the summer would be approximately \$700.00 per credential candidate. Since most college and university PPS credential program requirements were already above the minimum requirement, there would be little or no impact on their credential candidates. However for the credential candidates in private college and university credential programs, they are the ones who would incur approximately \$700.00. If all 15 private colleges and universities offering PPS credential programs had an average of 50 students go through the program, then the grand total cost to all credential candidates would be \$525,000.00

Cost Impact on Representative Businesses: California colleges and universities that offer PPS Credential Programs must modify their program syllabi to address the new competencies and submit them to the



Commission for approval. A rough estimate would be approximately \$1,000 in staff time, printing and postage for mailing.

Assessment Regarding the Creation or Elimination of Jobs in California: The Commission has made an assessment that the proposed amendment to the regulations would not (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

Significant, Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete with Businesses in Other States: None. Private institutions of higher education will likely be impacted minimally, and an insignificant number of students enrolled in those programs will be affected.

Effect on Small Businesses: None. This proposed amendment change affects only the Commission, public and private institutions of higher education and prospective PPS credential candidates, who are not small businesses.

Significant Effect on Housing Costs: None.

#### ALTERNATIVES CONSIDERED

At this time, a reasonable alternative to the proposed regulation has not been identified by the Commission or brought to its attention, including any that will be as effective and less burdensome to affected private persons or small businesses than the proposed action.

Before approving any proposed changes to the regulations, the Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as effective and less burdensome to affected private persons or small businesses than the proposed action.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed actions. The written comment period closes at 5:00 p.m. on December 3, 2003. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 327-3165, write to the California Commission on Teacher Credentialing, attention *Joseph Dear*, 1900 Capitol Avenue, Sacramento, CA 95814, or submit an e-mail at <jdear@ctc.ca.gov>.

Any written comments received 14 days prior to the public hearing will be reproduced by the Commission's staff for each Commissioner as a courtesy to the person submitting the comments and will be included

in the written agenda prepared for and presented to the full Commission at the hearing.

#### PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be held:

**Date:** December 4, 2003

**Time:** 11:00 a.m.

California Commission on Teacher Credentialing  
1900 Capitol Avenue  
Sacramento, California 95814

Oral comments on the proposed action will be taken at a public hearing. We would appreciate 14 days advance notice in order to schedule sufficient time on the agenda for all speakers. Please contact Joseph Dear at 916-327-1461 regarding this. Any person wishing to submit written comments at the public hearing may do so. It is requested, but not required, that persons submitting such comments provide fifty copies to be distributed to the commissioners and interested members of the public. All written statements submitted at the hearing will, however, be given full consideration regardless of the number of copies submitted.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of regulations, and the initial statement of reasons.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Commission's web site at [www.ct.ca.gov](http://www.ct.ca.gov).

#### MODIFICATION OF PROPOSED ACTIONS

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. When it is available, it will be placed on the Commission's web-site at <<http://www.ctc.ca.gov>> or you may obtain a copy by contacting Joe Dear at (916) 327-1461

#### CONTACT PERSON/FURTHER INFORMATION

Inquiries concerning the proposed action may be directed to Joseph Dear at (916) 327-1461 or Larry Birch at (916) 327-2967. Joseph Dear at (916) 327-1461 can respond to questions concerning the substance of the proposed regulations. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's web-site at <<http://www.ctc.ca.gov>>. In addition, all the information on which this proposal is based is available at the Commission office for inspection and copying.

### **TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD**

#### **NOTICE OF PROPOSED REGULATORY ACTION TO AMEND TITLE 8, SECTIONS 20299 AND 20390**

Notice is hereby given that the Agricultural Labor Relations Board (ALRB or Board), pursuant to the authority vested in it by section 1144 of the Labor Code to make, amend, or rescind rules and regulations as may be necessary to implement, interpret, and make specific the provisions of the Agricultural Labor Relations Act (ALRA) (Labor Code sec. 1140, et seq.), proposes to amend sections 20299 and 20390 of its regulations. The Board's regulations are codified in Title 8, California Code of Regulations, section 20100, et seq. The proposed amendments are described below in the Informative Digest. An initial statement of reasons for the amendment of these regulations, along with the text of proposed amendments, has been prepared by the ALRB and is available upon request by contacting J. Antonio Barbosa, Executive Secretary, Agricultural Labor Relations Board, 915 Capitol Mall, Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov). This notice, as well as the initial statement of reasons and text of the proposed regulation, also may be found on the Board's website at [www.alrb.ca.gov](http://www.alrb.ca.gov). The final statement of reasons, once it has been prepared, shall be available in the same manner as the initial statement of reasons.

**The ALRB invites all interested persons to submit written comments on the proposed amendments. Comments must be received at ALRB headquarters at the address listed above by 5:00 p.m. on December 1, 2003. A public hearing has not been scheduled. However, any interested person or his or her duly authorized representative may submit, in writing, no later than November 17, 2003, a request that a public hearing be held on the proposed amendments.**

#### ADOPTION OF PROPOSED REGULATION

After the comment period closes, and a hearing, if requested, is held, the Board will consider all public comment, written and oral, and decide whether to make any changes to the proposed amendments. The Board may adopt the proposed amendments if no substantial changes are made. If the Board decides to make substantial changes that are "sufficiently related" to the initial proposals, the public will be given notice of those changes and will be given at least 15 days to provide comment. If the Board decides to make "major" changes to the proposals that are "not sufficiently related to" the initial proposals, a new notice of proposed action will issue allowing for a new 45-day comment period.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

#### **Amend Section 20299. Agricultural Employee Relief Fund.**

On January 1, 2002, Senate Bill 1198 took effect. This legislation established the Agricultural Employee Relief Fund (Fund), and provides that where the Board orders monetary relief and, despite diligent efforts, employees to whom the monies are owed cannot be located within two years after collection of the monies on their behalf, such monies will be deposited in the Fund. The Fund will then be used to pay employees the unpaid balance of monetary relief ordered by the Board in cases where the Board determines that collection of the full amount owed by the employer is not possible. The Board proposed and adopted Regulations 20299, providing comprehensive procedures for administering the Fund. That regulation took effect on October 3, 2002.

Subdivision (a) of the regulations restricts the monies that may be deposited in the Fund to those collected on or after January 1, 2002, the effective date of the legislation. This reflected the Board's legal interpretation at the time the implementing regulation was adopted that depositing monies collected prior to the effective date of the legislation could constitute an improper retroactive application of the new law. Subsequent to the promulgation of the implementing regulation, further legal research indicated that in those cases where there was no enforceable promise to return monies unclaimed for the requisite two years to the employer, and where the monies had not escheated to the state by operation of law prior to the effective date of the legislation, such monies should be deposited in the Fund without constituting a retroactive application of the statute even if collected prior to January 1, 2002. A recently issued Legislative Counsel opinion requested by the author of SB 1198 confirmed the Board's legal analysis.

Therefore, the Board proposes to amend section 20299 to provide for the deposit into the Fund of monies, otherwise eligible for the Fund, collected prior to January 1, 2002 if the monies were not subject to an enforceable promise to return them to the employer and had not escheated to the State by operation of law as of January 1, 2002.

#### **Amend Section 20390. Decertification and Rival Union Petitions.**

The existing regulation governing decertification and rival union petitions contains two significant deficiencies that cause confusion for parties filing decertification and rival union petitions. The first deficiency is that there is no requirement that such petitions be served on the incumbent union. The existing regulation, in present subdivision (c), cross references other regulations by stating that the regulations governing procedures in certification elections also shall apply to decertification elections. However, because the section that contains the service provisions, section 20300, by its terms governs certification petitions (where there is no incumbent union), it assumes that the only other party to the election is the employer and makes no mention of service of a petition on an incumbent union. Such service is, of course, fundamental to due process. In other respects, the certification election procedures are equally applicable to decertification elections. Therefore, the Board proposes to amend section 20390, in new subdivision (e), to expressly provide that the incumbent union be served with the petition.

The second deficiency in existing section 20390 is that the regulation fails to account for the filing of decertification or rival union petitions where there is no existing collective bargaining agreement between the incumbent union and the employer. The only provisions of the ALRA that expressly mention decertification or rival union petitions are contained in section 1156.7, subdivisions (c) and (d). Those sections, by their terms, set forth the requirements for such petitions where there is an existing collective bargaining agreement. Nevertheless, both the Board and the courts have recognized that employees and rival unions have an implied right to attempt to decertify an incumbent union when there is no collective bargaining agreement in place. Such petitions may be filed under section 1156.3, though that section expressly governs only certification elections. Existing section 20390 references only those petitions filed pursuant to ALRA section 1156.7. The proposed amendments to section 20390 are designed to correct this deficiency by setting forth the requirements for all types decertification and rival union petitions.

#### **RULEMAKING FILE**

Pursuant to Government Code sections 11346.5 and 11347.3, the Board shall maintain a rulemaking file containing all materials considered in the rulemaking process.

The file currently contains:

1. A copy of this notice
2. A copy of the Initial Statement of Reasons
3. Text of the Proposed Amendments to Sections 20299 and 20390

As other materials are received, such as written comments, studies, reports, etc., they will be added to the rulemaking file. The file is available for inspection at the headquarters office of the ALRB, 915 Capitol Mall, Third Floor, Sacramento, CA, during normal business hours.

#### **ALTERNATIVES TO PROPOSED ACTION**

The Administrative Procedure Act requires that the Board, in taking any regulatory action, must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **LOCAL MANDATE STATEMENT**

The proposed regulatory changes would not impose any mandate on local agencies or school districts.

#### **IMPACT STATEMENTS**

- A. Estimated fiscal impact on local government or school districts: None.
- B. The proposed changes would result in no cost or savings to any state agency, or cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code, nor impose other nondiscretionary cost or savings on local agencies or effect cost or savings in federal funding.
- C. Fiscal effect on private persons or businesses directly affected: No increase in costs.
- D. The proposed changes would have no effect on small business because the changes impose no new burdens upon parties appearing before the Board.
- E. The proposed changes would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- F. The proposed changes would have no effect on the creation or elimination of jobs within the State of California, no effect on the creation of new businesses or the elimination of existing businesses



within the State of California, and no effect on the expansion of businesses currently doing business within the State of California.

- G. The ALRB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. The proposed changes would have no effect on housing costs.

#### **INQUIRIES**

Any inquiries concerning any aspect of the proposed regulatory action noticed herein should be directed to J. Antonio Barbosa, Executive Secretary, Agricultural Labor Relations Board, 915 Capitol Mall, Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov) or Joseph A. Wender, Jr., Senior Board Counsel, same address and fax number as above, (916) 651-7620, e-mail: [jwender@alrb.ca.gov](mailto:jwender@alrb.ca.gov). Questions concerning the substance of the proposed amendments may be directed to Mr. Wender.

### **TITLE 13. CALIFORNIA HIGHWAY PATROL**

#### **NOTICE OF PROPOSED REGULATORY ACTION**

**TITLE 13, CALIFORNIA CODE OF  
REGULATIONS, DIVISION 2, CHAPTER 2  
AMEND ARTICLE 9, SECTION 712**

#### **LIGHTING EQUIPMENT—FOG LAMPS (CHP-R-03-01)**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations, related to requirements for fog lamps.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Section 26103 of the California Vehicle Code (VC) authorizes the CHP to adopt regulations establishing standards and specifications for, among other items, lighting equipment. Standards for auxiliary driving lamps, fog lamps and passing lamps are contained in Sections 710 through 713, Title 13, California Code of Regulations (13 CCR).

The current standards for fog lamps adopt by reference two specific standards adopted by the Society of Automotive Engineers (SAE). Fog lamps may currently meet the standards contained in either SAE Standard J583d, July 1977 or J583, JUN93, at the option of the manufacturer.

The CHP now proposes to amend these standards to provide that fog lamps may also comply with the latest version of this standard, SAE J583 JUN2001, again at the option of the manufacturer. This latest version of

the SAE standard for fog lamps provides a sharper upper cutoff of projected light, making it easier for the vehicle operator to aim the lamps properly and resulting in decreased glare to oncoming motorists.

#### **PUBLIC COMMENTS**

Any interested person may submit written comments on this proposed action via facsimile at (916) 446-4579,, by email to [cvsregs@chp.ca.gov](mailto:cvsregs@chp.ca.gov), or by writing to:

CHP, Enforcement Services Division  
Commercial Vehicle Section  
ATTN: Mr. Jack Schwendener  
P. O. Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, December 1, 2003.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

#### **AVAILABILITY OF INFORMATION**

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, Commercial Vehicle Section at (916) 445-1865. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the California Highway Patrol, Commercial Vehicle Section, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at [www.chp.ca.gov/regulations](http://www.chp.ca.gov/regulations).

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

#### **CONTACT PERSON**

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Jack Schwendener or Mr. Gary Ritz, CHP, Commercial Vehicle Section at (916) 445-1865.



Inquiries regarding the substance of the proposed regulations should be directed to Mr. Jack Schwendener.

#### ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

#### FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, or state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The California Highway Patrol is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### EFFECT ON SMALL BUSINESSES

The California Highway Patrol has determined that the proposed regulatory action may affect small businesses.

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the California Highway Patrol must determine that no reasonable alternative considered by the California Highway Patrol, or that has otherwise been identified and brought to the attention of the California Highway Patrol, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The California Highway Patrol invites interested parties to present statements or arguments with

respect to alternatives to the proposed regulations during the written comment period.

#### AUTHORITY

This regulatory action is being taken pursuant to Sections 2402 and 26103 VC.

#### REFERENCE

This action implements, interprets, or makes specific Sections 24403, 24012 and 26103 VC.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071, 7078, 7923, 8026, 8425, and 88429.5 of the Fish and Game Code and to implement, interpret or make specific sections 7050, 7070, 7071, 7075, 7078, 7082, 7083, 7086, 7701, 7708, 7923, 8026, 8081, 8420, 8425, 8429.5, and 8429.7 of said Code, proposes to add section 53.00, 53.01, 53.02, 53.03, 149.1, 149.2, 149.3 and 149.4 and amend Section 149, Title 14, California Code of Regulations, relating to the Market Squid Fishery Management Plan, Commercial Take of Squid, and Market Squid Restricted Access Program.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulations are proposed to implement a Market Squid Fishery Management Plan (Market Squid FMP, or Plan), including a market squid commercial fishery restricted access program, and to amend existing commercial squid fishing regulations adopted by the Fish and Game Commission (Commission) to manage the squid resource at a sustainable level. Fish and Game Code Section 8425 directs the Department of Fish and Game (Department) to develop, and the Commission to adopt, a Market Squid FMP in compliance with the Marine Life Management Act (MLMA) (Chap. 1052, Stats. 1998).

Each of the management alternatives included in the proposed regulatory amendments to Title 14, CCR, is described in the summary which follows.

**Add Section 53.00, et seq. This proposed series of regulations serves to implement the Market Squid FMP, as follows:**

**Section 53.00—Purpose and Scope.** Following in the series of regulations established in Chapter 5.5 of Title 14, CCR, which implement fishery management plans adopted by the Commission pursuant to the Marine Life Management Act, this Section provides that regulations established in Article 4 are consistent with the goals and objectives of the Market Squid

FMP. It also states that the Plan, in combination with other applicable state and federal laws and regulations, governs management and regulation of market squid stocks and fisheries. The regulation further explains where specific squid regulations that will be adopted concurrently with adoption of the Plan may be found in the structure of Title 14.

**Section 53.01—Definitions.** This Section serves to provide definitions that are specific to the Market Squid FMP. All definitions provided are consistent with those found in the general FMP definitions found in Section 50.01 of Title 14 as well as other provisions of state and federal fisheries laws.

**Section 53.02—Process and Timing.** This Section explains that management of squid stocks and fisheries will conform to the Market Squid FMP and other applicable state and federal laws and regulations, and that regulations may be adopted by the Commission in compliance with the Administrative Procedure Act to achieve intended management actions. The Department will provide the Commission information periodically upon which management decisions may be made, and the Director may establish an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and Plan amendments.

**Section 53.03—Market Squid Fishery Management Plan (Market Squid FMP) Project.** This Section serves to outline the proposed management actions which are presented in the Market Squid FMP, which constitute the “Proposed Project” of the Market Squid FMP, in fulfillment of CEQA requirements. This Section also provides that other management measures which are not included at this time as part of the proposed project or specifically detailed in the Market Squid FMP may be considered by the Commission for implementation at a later date, provided the action is consistent with the goals and objectives of the Market Squid FMP.

**149. Commercial Taking of Market Squid.** This Section was modified in 2000 and 2002 based upon the Commission’s adoption of interim regulations using management authority from the Legislature to protect and manage the squid resource. Management measures adopted in these actions included enactment of weekend closures to provide for uninterrupted squid spawning throughout the state for two days per week, requirements to fill out logbooks of fishing activity, a limitation on the amount of light (wattage) which may be used for commercial squid fishing operations, a requirement to shield lights used for commercial squid fishing, and a statewide seasonal limit on the allowable catch of 125,000 short tons. There requirements are currently specified in subsections (a)

through (e) of Title 14, CCR. Modifications, alternatives and additions to regulations in this Section are discussed below.

**Section 149 Subsection (a)—Weekend Closures.** Four regulatory options are provided for the Commission’s consideration on this item; the first of which would only modify existing regulatory language to provide needed clarity on the scope of the regulation for enforcement purposes. The proposed modifications would clarify that commercial landings which are smaller than two tons are exempt from the closure in order to continue to provide an opportunity to land squid which may be taken as bycatch in fisheries where squid is not a target. Additionally, it is clarified that squid taken for live bait purposes on weekends pursuant to this Section shall only be sold as live bait.

The second option would repeal the weekend closure altogether.

The third option would maintain existing statewide weekend closures but provide for an exemption in the areas of the northern Channel Islands to allow fishing to continue 7 days per week, as some portion of the squid stock in that area would instead be protected in the newly-established marine protected areas.

The fourth option would maintain existing weekend closures in waters south of Point Conception, but the Commission could adjust the number of days per week open to fishing as well as the times of day or night that commercial squid fishing would be authorized in waters north of Point Conception.

**Section 149 Subsection (b)—Logbooks.** As with weekend closure regulations in subsection (a), the Commission will take action at the adoption meeting to specify if existing logbook regulations shall be maintained and slightly modified for enforcement purposes, or if the measure shall be repealed. Proposed modifications to the existing language would update the permit designations to be consistent with the proposed commercial restricted access program and modify the revision dates of the logbook forms which are referenced in the regulation. It would also specify that logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred, a requirement consistent with existing regulatory language in Section 190, Title 14, CCR.

**Section 149 Subsection (c)—Wattage Limitation.** The Commission will take action at the adoption meeting to specify if existing wattage regulations shall be eliminated, maintained at the current level, or replaced with a wattage limitation set at a value between the range of 15,000 to 30,000 watts. Other slight modifications are proposed to the existing regulatory language for technical clarification purposes.

**Section 149 Subsection (d)—Light Shields.** The Commission will determine if the current requirements shall be maintained status quo, if they should be modified to improve the effectiveness of the measure, or if they shall be repealed altogether. Department enforcement staff have indicated that the existing regulatory language is somewhat unclear with regard to the orientation of the lights directly downward; thus, the option to modify the requirements would add language which would also require that the lower edges of the shields be parallel to the deck of the vessel. The Department recognizes that this change to current practice could require that some light boat or vessel owners would need to substantially retrofit their shields in order to comply with the proposed regulatory change; therefore it would be incorrect to designate the proposed change as merely a non-substantive, technical or clarifying in nature; and therefore it is considered as a separate regulatory option.

**Section 149 Subsection (e)—Seasonal Catch Limitation.** The Commission has four options to select from in terms of specifying an overall limit each season on the commercial harvest of squid. In options that serve to modify existing regulatory language, the existing term of “seasonal harvest guideline” is proposed to be replaced with “seasonal catch limitation” in each option in order to maintain consistency with general fishery management plan definitions specified in Section 50.01, Title 14, CCR. Other clarifying language was included to acknowledge existing or proposed regulatory provisions in this Section. The options include A) maintain existing regulations for a statewide catch limit, while considering changes to the allowable volume from a range of 24,000 to 125,000 short tons, B) eliminate the existing provisions, C) use El Nino events to determine the allowable harvest level [11,000 short tons during an El Nino time period and 115,000 short tons during a non-El Nino time period], or D) establish the limits regionally rather than statewide [5,500 to 27,800 short tons north of Point Conception and 65,500 to 111,600 short tons south of Point Conception]. Options C and D involve substantial new regulatory language.

**Section 149 Subsection (f)—Option to Add Daily Trip Limits.** If adopted, these regulations would limit each squid landing to a specified tonnage level depending on the type of fishing gear used. Roundhaul (purse seine, lampara) landings would be subject to a daily trip limit ranging from 30 to 138 short tons per day, and a level of 15 short tons would be imposed for brail vessels.

**Section 149 Subsection (g)—Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas and/or General Habitat Closures.** If adopted, these regulations

would establish a closed season from February 1 through September 30 for squid fishing, or for squid fishing employing the use of lights, in specified areas at two or three of the northern Channel Islands and/or the Farallon Islands and/or all waters of the Gulf of the Farallones National Marine Sanctuary in order to provide seasonal protection for nesting seabirds. Each of the proposed closure areas extend outward at least one nautical mile from shore. These options were designed to provide various levels of protection to multiple seabird species which may have reduced, threatened, or endangered population levels.

Additionally, if adopted, a proposed regulation would prohibit the take of market squid for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island. This proposed option may provide a specific squid harvest replenishment area in a currently underutilized squid fishing area and would prevent expansion of the fishery into these waters.

Additionally, if adopted, proposed regulations would prohibit the take of market squid for commercial purposes in specified northern California waters for general habitat protection. These measures are designed to prevent squid fishery interactions in areas that have not been traditionally utilized for commercial squid fishing. In 2003, several boats began harvesting squid in waters well north of the traditional Monterey fishing grounds, which is of concern to some biologists and other users of these areas. Particular issues that have been raised as matters of concern in these areas include the potential for bycatch of salmon in purse seine gear, potential for impact to seabirds from noise and lights, and the potential for interaction with marine mammals. Options to address these concerns include closing all waters to the commercial take of squid north of Pillar Point at any time, prohibiting the commercial take of squid in any waters of the Gulf of the Farallones National Marine Sanctuary, prohibiting the take of squid for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock, or prohibiting the take of squid for commercial purposes in District 10.

**Section 149 Subsection (h)—Allow for Incidental Take.** This regulation would specify that it is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a specific permit designation or for purposes of live bait only. This amendment would serve to establish, in regulation, a statutory provision that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.



**Section 149 Subsection (i)—Specify Forfeiture Process.** This amendment would also serve to establish, in regulation, a statutory provision in Section 8421 (h) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

**Section 149 Subsection (j)—Clarify Authorized Use of Light to Aggregate Squid.** This amendment would also serve to establish, in regulation, a statutory provision in Section 8423 (e) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

**Section 149 Subsection (k)—Clarify to Whom Citations for Violations of This Section May Be Issued.** The proposed regulations would include this subsection to clarify that citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1, Title 14, CCR.

**Add Section 149.1, et seq.** This proposed series of regulations serve to implement the commercial Market Squid Fishery Restricted Access Program, as follows below. The program and regulations are designed in accordance with the Commission's policy on Restricted Access Commercial Fisheries, and provides for a reduction in the fishing capacity of the market squid fleet and to allow for transfer of permits, which has been prohibited under the current statutory moratorium on permit issuance. The regulations, if adopted, would define and establish permits of different classes based on authorized geartypes, procedural requirements for permit issuance, fishery capacity goals, and specific mechanisms to achieve those goals through permit transferability and upgrades.

**Section 149.1 Subsection (a)—Establish Permit Requirement to Fish Squid for Commercial Purposes.** This proposed regulation states that on and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, shall have a valid market squid permit issued to the owner of that vessel.

**Section 149.1 Subsection (b)—Establish Permit Classes and Authorized Activities.** The proposed subsection would designate up to three classes of commercial squid permits, to include Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits. Within each permit class, authorized gear types are specified. The regulation also allows permits to be specified as transferable or non-transferable, or both types of

permits to be issued in each class. Only one market squid permit, regardless of the class of permit, may be issued per owner per vessel.

**Section 149.1 Subsection (c)—Establish Initial Permit Issuance Criteria.** The proposed regulatory language specifies that permits are to be issued for fishing vessels based on either the vessel or an individual meeting the selected initial issuance criteria for each class of permit. The Commission may choose among several initial issuance criteria options that can result in transferable and/or non-transferable permit designations. For vessel permits, initial issuance criteria are constructed upon levels of catch history ranging from 50 to 150 squid landings within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For brail permits, the Commission may consider a range of qualifying participation levels from 5 to 25 squid landings made with brail gear within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For light boat permits, initial issuance criteria based on landings are inappropriate, therefore this option is based on possessing a current market squid permit (vessel or light) and submission of one logbook within a qualifying time period spanning from January 1, 2000 to December 31, 2002. Options are provided that include permit issuance criteria based on 10 to 50 squid landings in one single fishing season for 20-year California commercial fishermen (grandfathered individuals) pursuant to Fish and Game Code Section 8101. Other options for initial issuance criteria would not be based on prior catch history, and instead would require only that a squid permit have been held in one or more previous years.

The regulation further specifies that should non-transferable classes of permits be selected by the Commission for issuance, they may only be issued to individuals, and may not be issued to partnerships or corporations; although at the time of issuance, the permit may be issued for a vessel which is owned by a partnership or corporation. This provision allows for the non-transferable permit to expire when the permit holder dies, as the individual's personal fishing history was used to meet the initial issuance criteria.

**Section 149.1 Subsections (d) and (e)—Specify Application Deadlines for Initial Permit Issuance, and an Appeals Process.** These proposed regulations specify that all applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be submitted by June 30, 2004, and provide for a grace period through July 31, 2004 with a \$250 late fee. Applications for initial permit issuance after this time period will be denied by the Department. Failure to impose deadlines on initial issuance could undermine the goals of the restricted access



program since mechanisms to reduce fishing capacity designed as part of the program would likely be ineffective if new permits are continuously issued. Regulations also provide that any applicant who is denied initial issuance of any class of permit may appeal that denial to the Commission within 60 days of the denial.

**Section 149.1 Subsections (f), (g) and (h)—Specify Annual Permit Renewal Criteria, Deadlines and Appeals Process.** These proposed regulations state that permits must be renewed annually, and may only be issued by the Department each year to those who held the same permit in the prior year. It also clarifies that upon the death of a non-transferable permit holder, the permit cannot be renewed. The proposed regulations state that renewal applications must be submitted by April 30 of each year, and provide for a grace period through May 31 of each year with a \$250 late fee. Applications for permit renewal after this time period will be denied by the department and returned to the applicant. If the permittee misses the deadline, an appeals process is again defined.

**Section 149.1 Subsection (i)—Fees.** The proposed regulations reflect a range of permit, transfer and upgrade fees for the Commission's consideration. For each market squid permit, the Commission will select an annual fee from a range of \$400 to \$5000. This level may be set differently for each class of permit (i.e. vessel, brail or light; transferable or non-transferable). For permit transfers, both in cases where the vessel is transferred to a new owner, or if the permit is transferred to a replacement vessel, the Commission will select from a proposed fee range of \$250-\$1000 for the transaction. For each Market Squid Brail Permit Upgrade, the Commission will select a one-time fee from a range of \$400 to \$5000.

**Section 149.1 Subsection (j)—Permit Revocation, Suspension or Cancellation.** The proposed subsection, if adopted, would specify that a permit can be revoked or suspended by the Commission under the following circumstances: a) if the permit holder used false information to qualify for the permit, b) if the permit holder violates commercial squid fishing regulations, or c) if any terms or conditions of the permit are violated.

**Section 149.1 Subsection (k)—Dissolution of Partnership or Corporation.** For vessels which hold permits which are issued to partnerships or corporations, rather than individual vessel owners, the proposed regulation would require that the permit holder notify the Department of any dissolution of the partnership or corporation, and to specify who the successor permit holder is so that the Department may reissue the permit in that name.

**Section 149.1 Subsection (l)—Change of Vessel Ownership.** The proposed regulations, if adopted, would require the Commission to set a fee from a range of \$250-\$1000 to be imposed in cases where a permit holder sells his permitted vessel to another owner, and chooses to transfer the market squid permit to the new vessel owner. Documentation requirements and procedures for completing the transaction are also provided. The proposed regulations clarify that non-transferable permits will be canceled upon the sale or transfer of ownership of the vessel.

**Section 149.1 Subsection (m)—Capacity Goals.** This subsection establishes in regulation, the optimum number of vessels for each squid fishery permit class as selected by the Commission. These numbers form the basis from which other provisions of the restricted access program, such as permit transferability, are determined. If approved, the Commission will adopt a capacity goal for Market Squid Vessel Permits from a range of 10-104 permits, a capacity goal for Market Squid Brail Permits of 18 permits, and a capacity goal for Market Squid Light Boat Permits from a range of 10-104 permits. The proposed regulations also specify that the capacity goals for vessel permits shall equal the sum of the capacity goals for the brail and light boat permit classes.

**Section 149.1 Subsection (n)—Gross Tonnage Endorsement.** Proposed regulations in this subsection explain the criteria for defining or calculating the gross tonnage of a vessel for which a Market Squid Vessel Permit or a Market Squid Brail Permit is issued. The provisions provide consistency with federal regulations which are established for Coastal Pelagic Species fishery permits, and to provide a measure of comparable capacity for purposes of determining permit transferability.

**Section 149.1 Subsections (o) and (p)—Transfer of Permits to Replacement Vessels and Transfer Appeals Process.** If adopted, these subsections would define criteria that would allow for transfer of a permit to a different vessel after August 31, 2004 as selected by the Commission from a wide range of options. The option recommended by the Department would limit permit transfers in these classes to vessels only of comparable capacity, consistent with transferability guidelines for federal Coastal Pelagic Species permits. Regulations would specify that two vessels in the vessel or brail permit classes are considered to be of comparable capacity if the gross tonnage of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel. Other options include no permit transferability except in cases of major mechanical breakdown or loss of the vessel, and transferability of permits regardless of vessel capacity. An additional option provides for cases where a replacement vessel

does not meet the “comparable capacity” provisions, a “two-for-one” permit transfer (an additional permit must be relinquished) may be authorized.

Light boat permit transfer options include “one for one” permit transferability, or provisions for a “two-for-one” permit transfer if the number of permits issued is at a level above the capacity goal specified in subsection (m), and “one for one” if the number of permits issued is below the capacity goal.

Regulations also define documentation requirements and procedures for completing the permit transfer transactions, and provide that any applicant who is denied transfer of any permit may appeal that denial first to the Department and then to the Commission.

**Section 149.1 Subsections (q) and (r)—Market Squid Brail Permit Upgrade, and Appeals Process.**

If adopted, these subsections would provide for a Market Squid Light Boat permittee to upgrade to a Market Squid Brail Permit with surrender of one to three additional Market Squid Light Boat Permits. This option will provide a mechanism to reduce the number of light boat permits, while providing an opportunity to acquire a Market Squid Brail Permit. Regulations also define documentation requirements and procedures for completing the transaction, and provide that any applicant who is denied upgrade of the permit may appeal that denial first to the Department and then to the Commission.

**Add Section 149.2, Permits for Taking of Market Squid for Sale as Live Bait.** If adopted, on and after April 1, 2005, any owner of a vessel which takes market squid for live bait purposes will be required to hold a Market Squid Live Bait Permit for that vessel. This regulatory option is provided to the Commission should they choose to initiate management of this currently-unregulated component of the squid fishery.

**Add Section 149.3, Experimental Market Squid Vessel Permits.** If adopted, this provision would allow the commission to issue 1–5 Transferable or Non-Transferable Market Squid Vessel Permits to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production. Individuals issued permits pursuant to this Section would be required to adhere to all commercial squid fishing regulations in Section 149, Title 14, CCR, and all terms and conditions for permits defined in Section 149.1, excepting initial issuance criteria defined in Section 149.1(c).

**Add Section 149.4, Market Squid Fishery Regional Control Date.** If adopted, this provision would establish a control date to notify participants of intent to adopt a regional restricted access program for the squid fishery at a future date. A range of control date options [April 1, 1998–October 17, 2003] is proposed

for consideration. Fishery participation on or after this date may apply toward a permit for a specified geographic region under a future regional restricted access program for the market squid fishery if one is developed. Fishery participation prior to the control date would not be used as a measure of participation to qualify for initial issuance of regional restricted access permits. Only participation on or after the control date may be used to determine eligibility in a future regional restricted access program. The port of landing of these catches or records of light boat activity would be used to determine eligibility in specific geographic areas.

Possession of any market squid vessel, brail, or light boat permit issued pursuant to Section 149.1, Title 14, CCR, would not guarantee issuance of a permit under any future squid regional restricted access program. Beginning with the fishing season immediately following adoption of a regional restricted access program, market squid fishery permits issued pursuant to Section 149.1 would be replaced with the appropriate regional permits that would be subject to specific conditions for issuance. Permits previously issued under Section 149.1 would be nullified and no longer subject to renewal provisions.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California, on Friday, November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Friday, December 5, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 28, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 5, 2003, at the hearing in Sacramento, CA. Written comments, including e-mail comments, must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Sherrie Koell at the

preceding address or phone number. Dale Sweetnam, Department of Fish and Game, phone (858) 546-7171, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission has made an initial determination that the adoption of the recommended regulations may result in adverse economic impacts directly affecting California's small businesses associated with the market squid fishery. However, the potential economic impacts would not affect the ability of California's small businesses to compete with businesses in other states.

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could

result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Regulations to establish a restricted access fishery and the associated eligibility criteria may result in loss of 31 to 81 market squid fishing jobs.

- (c) Cost Impacts on a Representative Private Person or Business:

Private person or business costs impacts that could arise from the proposed action are increases in market squid permit fees. Currently market squid permits fees are set at \$400 annually, and depending on the regulations adopted could increase to as much as \$5,000 annually.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **TITLE 14. FISH AND GAME COMMISSION**

### **NOTICE OF PROPOSED CHANGES IN REGULATIONS**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071 and 8587.1 of the



Fish and Game Code and to implement, interpret or make specific sections 7071, 7652, 8585.5 and 8587.1 of said Code, proposes to amend subsection 150.06(c), Title 14, California Code of Regulations, relating to the commercial take of cabezon, greenlings and sheephead.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Existing language of Section 150.06 (c), Title 14, California Code of Regulations (CCR), states that commercial seasons for cabezon, greenlings and sheephead (CGS) for all areas of the state are to be set annually in accordance with nearshore rockfish seasons established in Federal regulations for the area from 40°10' N. lat. (near Cape Mendocino) to the to the US/Mexican border. In 2003, commercial nearshore rockfish regulations for this area allowed fishing for 10 months of the year, with the two month closure period set as the months of March and April (Table 1).

At the September 2003 Pacific Fishery Management Council meeting, actions were taken that will result in commercial nearshore rockfish seasons for 2004 to be open in some areas of the state during some months, and closed in others. Therefore, from the regulations (Section 150.06, Title 14, CCR), it is not clear whether commercial CGS seasons are in fact open or closed. From the geographic area from 34°27' N. lat. (Point Conception) to the US/Mexican border (referred to as the southern area), commercial shallow and deeper nearshore rockfish fisheries are closed in January and February, while in the area from 34°27' N. lat. to 40°10' N. lat. (referred to as the central area); the closure period is in March and April as in 2003.

Since the closure periods are no longer consistent for the region from 40°10' N. lat. to the US/Mexican border, the existing Title 14 language must be changed to specify that the CGS commercial season is to be consistent with shallow and deeper nearshore rockfish commercial rockfish seasons in each particular geographic region. This strategy of aligning the CGS seasons with that of nearshore rockfish has been a consistent practice of the Fish and Game Commission in regulatory actions since 2002, based on concerns for bycatch of rockfish which would occur in targeted CGS fisheries if rockfish were prohibited from retention at that time.

Additionally, the proposed regulation changes require the Commission to determine whether the commercial CGS fishery shall have a closure period in the area from 40°10' N. lat. to the California/Oregon border (referred to as the northern area). This area does not have a closure period for nearshore rockfish. However, in 2003, the Commission adopted regulations which authorized commercial CGS fishing for a length of 10 months throughout the state, so that one area would not have more opportunity than another.

Therefore, the Commission may select either not to enact a CGS closure in this area, or to enact a closure for the months of March and April, which would be consistent with the 2-month closure in the central area which is immediately adjacent. While the first option would align the CGS seasons with rockfish in the northern area, it would allow the northern fishery additional fishing opportunity for CGS compared to the fishery to the south. Under the second alternative, fishing for CGS would be closed during March and April when fishing would be allowed for nearshore rockfish, and all areas of the state would have equal time on the water to access CGS fisheries.

TABLE 1  
2003 Commercial CGS and  
Nearshore Rockfish Regulations

Area	Species	Closure Period
40°10' N. lat (near Cape Mendocino) to the Oregon Border	Cabazon/ Greenlings/Sheephead	March–April
	Minor Nearshore Rockfish	None
40°10' N. lat (near Cape Mendocino) to Pt. Conception (34°27' N. lat)	Cabazon/ Greenlings/Sheephead	March–April
	Shallow and Deeper Nearshore Rockfish	March–April
Pt. Conception (34°27' N. lat) to the U.S.-Mexico border	Cabazon/ Greenlings/Sheephead	March–April
	Shallow and Deeper Nearshore Rockfish	March–April

2004 Commercial CGS and  
Nearshore Rockfish Regulations

Area	Species	Closure Period
40°10' N. lat (near Cape Mendocino) to the Oregon Border	Cabazon/ Greenlings/Sheephead	EITHER [March–April] OR [None]
	Minor Nearshore Rockfish	None
40°10' N. lat (near Cape Mendocino) to Pt. Conception (34°27' N. lat)	Cabazon/ Greenlings/Sheephead	March–April
	Shallow and Deeper Nearshore Rockfish	March–April
Pt. Conception (34°27' N. lat) to the U.S.-Mexico border	Cabazon/ Greenlings/Sheephead	January–February
	Shallow and Deeper Nearshore Rockfish	January–February

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California, on Friday, November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the



Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Friday, December 5, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 28, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 5, 2003, at the hearing in Sacramento, CA. Written comments, including e-mail comments, must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. Mr. Fred Wendell, Nearshore Ecosystem Coordinator, Department of Fish and Game, Marine Region, (805) 772-1714, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small business.

This regulatory action simply seeks to shift various months in which commercial CGS fishing activities may or may not occur, but the amount of allowable fishing time for each permittee in the southern and central areas of the state will not change as a result of the proposed regulations. For the northern area, if the Commission selects to allow for a 12-month CGS fishery instead of the currently authorized 10-month season, commercial nearshore fishermen in that area might receive some minor benefit from the opportunity to increase their time on the water. However, the degree of this benefit cannot be determined due to inability to project weather and fishing conditions or the competing impact of other regulations such as trip limits and harvest guidelines, which are likely to have a greater overall effect on a permittee's fishing success.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in

carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8282 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 8275, 8282, 8284, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9011, and 9012 of said Code, proposes to add Section 125, Title 14, California Code of Regulations, relating to the commercial take of rock crab.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A person must have a commercial fishing license, a general trap permit, and use a vessel that is commercially registered to participate in the commercial rock crab trap fishery. The proposed regulatory action would create a rock crab trap permit requirement beginning April 1, 2004. It would also establish initial issuance criteria based on prior catch history, and place a moratorium on the issuance of new permits after October 31, 2004. A control date is also proposed to provide for other limits on future participation if necessary. A fee is proposed for the annual permit. Only one individual aboard a vessel trapping rock crab would be required to have the rock crab trap permit in addition to the individual's general trap permit. Other licensed fishermen assisting in the take of rock crab would still need a commercial fishing license and a general trap permit. The permit application process and appeal and renewal processes are also specified in the proposed regulations.

The Department is proposing that a rock crab trap permit may be issued to any licensed commercial fisherman who has a general trap permit, and who has landed a minimum number of pounds of rock crab during a specified time period as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number. A range of minimum catch levels and time periods are provided from which the Commission may select. A minimum of 0 to 2,000 pounds must have been landed in any single calendar year between 1998 and 2002, or the participant must have cumulatively landed a minimum of 0 to 2,000 pounds in the 1998 through 2002 time period.

The range of 0–2000 pounds over the 5-year window period or in a single calendar year was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period. The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data.

#### Rock Crab Commercial Catches Over the 1998–2002 Window Period

Five-Year Cumulative Catch	Number of Individuals
2,000 pounds or more	146
1,000 pounds or more	189
750 pounds or more	200
500 pounds or more	241
250 pounds or more	300
200 pounds or more	314
100 pounds or more	368
50 pounds or more	414
1 pound or more	536

#### Rock Crab Commercial Catches in a Single Year During 1998–2002 Window Period

Single-Year Catch	Number of Individuals
2,000 pounds or more	140
1,000 pounds or more	170
750 pounds or more	181
500 pounds or more	223
250 pounds or more	286
200 pounds or more	303
100 pounds or more	359
50 pounds or more	410
1 pound or more	536

Applicants are required to submit a commercial rock crab trap permit application form DFG 1324 (9/03) along with the required fee. The Department is proposing an annual fee for the rock crab trap permit of \$50 to \$250. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, minimum annual costs of the program may be estimated at \$110,000.

Control date options from January 1, 2000 through March 31, 2003 were provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to

any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California, on Friday, November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Friday, December 5, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 28, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 5, 2003, at the hearing in Sacramento, CA or at the address below. Written comments, including e-mail comments, must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. Eric Larson, Ecosystem Coordinator, Department of Fish and Game, phone (650) 631-6788, 350 Harbor Blvd., Belmont, CA 94002, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small business. The proposed permit program would cause some fishermen who have participated in the fishery in the past on a limited and sporadic level to lose some potential income if the initial issuance criteria selected requires a level of prior participation that has not been met. As the ex-vessel value of rock crab is \$1.30 to \$2.00 per pound, with prior catch history of 1,000 pounds over the five year window period, a maximum future loss might be estimated at between \$1,300 and \$2,000 per person over a five-year time period if that individual was to repeat the prior performance level and the Commission were to select a minimum catch history of 1,000 pounds for initial permit issuance. It is thought that since these individuals do not derive a significant portion of their income from this fishery, the economic impact would not be significant to those that may not qualify for initial permit issuance.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

Each individual who seeks to purchase a rock crab trap permit and meets the selected initial issuance criteria may purchase a permit at a cost of [\$50-\$250]. The permit may be renewed annually at the selected fee level. This funding is needed to offset program costs, including funds needed to implement the initial permit program, track landings, enforce the new regulations, staff appeal hearings, review the program and develop any additional modifications to the program or develop other management strategies that



may be needed once the program is implemented. See Section III (a) of the Initial Statement of Reasons for additional information.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 8395 of the Fish and Game Code and to implement, interpret or make specific Section 8395 of said Code, proposes to amend Section 112, Title 14, California Code of Regulations, relating to Surfperch.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations authorize the take of surfperch of the family Embiotocidae for commercial purposes from July 16<sup>th</sup> through April 30<sup>th</sup>, except shiner surfperch (*Cymatogaster aggregata*) which may be taken, sold, or purchased at any time. Surfperch may be sold or purchased only between July 16<sup>th</sup> and May 10<sup>th</sup> [Section 8395, Fish and Game Code (FGC)]. South of a line drawn east and west through Point Arguello, barred surfperch, redbtail surfperch, and calico surfperch may not be taken for commercial purposes (Section 8395, FGC). Surfperch of these three species that have been taken north of the line may be sold or purchased provided that each

individual fish is permanently attached with a tag inscribed "California Department of Fish and Game-Surfperch" prior to shipment south of Point Arguello [Section 112, Title 14, California Code of Regulations (CCR)].

Also, the Commission was recently granted authority by the State Legislature to adopt regulations to manage the commercial surfperch fishery beginning in 2003, including authority to extend the commercial fishing closure for surfperch (Chap. 573, Stats 2002).

Surfperch include at least nineteen species of fish in the family Embiotocidae (variously termed surfperch, perch, and seaperch) that occur off California.

Proposed changes to the commercial surfperch regulations would extend the closed season for surfperch of the family Embiotocidae to July 30<sup>th</sup> and authorize sale and purchase of surfperch only between August 1<sup>st</sup> and May 10<sup>th</sup>. The intended purpose of the proposed regulations is to offer further protection of spawning females while continuing to provide for a viable commercial fishery. In addition, minor organizational and editorial changes are (also) proposed to improve the clarity and consistency of the regulations.

Surfperch have undergone declines in catch, size, catch-per-unit effort, and abundance based on fisheries dependent and independent surveys. They possess life history characteristics that make them susceptible to overfishing and vulnerable to habitat loss and degradation. Some species use nearshore areas as well as bays and estuaries to mate and give birth, with some species more at risk than others. Surfperch are live-bearers that produce an average of only 15 young each year, and may not rebound from population declines quickly. Concerns exist for the cumulative impacts of habitat loss and fishing that could lead to localized depletion of some surfperch species.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Resources Building Auditorium, 1<sup>st</sup> Floor, 1416 Ninth Street, Sacramento, California on Friday, December 5, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 26, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 5, 2003, at the hearing in Sacramento, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor,



Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Tracy L. Reed at the preceding address or phone number. Eric Larson, Department of Fish and Game, phone (650) 631-7730, 255 Harbor Blvd., Belmont, CA 94002, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action is not expected to have a significant statewide adverse economic impact affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed closure extension of the commercial surfperch fishery may have a limited short-term impact on fishermen and fish wholesalers. The long-term (1984–2002) mean percentage of landings occurring in July is 9.5 percent representing 9,461.9 pounds. In July of 2002, a total of 41 fishermen landed 3,612 pounds of surfperch valued at \$5,235 or an average of \$128 per fisherman. The proposed closure extension will maintain a viable fishery and ensure that more surfperch would be allowed to spawn. Post spawning fish would be available to the fishery in August. In the long term, these limited short-term

economic impacts may be mitigated by higher economic returns with a more abundant surfperch resource.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

## **TITLE 14. FISH AND GAME COMMISSION**

### **NOTICE OF PROPOSED CHANGES IN REGULATIONS**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 210, 215, 220, 7071, and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 210, 215, 220, 5517, 8585.5, 8586 and 8587.1 of said Code, proposes to amend sections 27.60, 27.82, 27.83, 28.26, 28.27, 28.28, 28.29, 28.54, 28.55, and 28.58, Title 14, California Code of

Regulations, relating to changes to the 2004 recreational groundfish fishery regulations for consistency with federal rules.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Fish and Game Commission (Commission) proposes to adopt sport fishing regulations for groundfish and associated species of finfish that conform to those of the Pacific Fishery Management Council (Council), and that regulate associated state-managed species in a manner that provides for continued recreational fishing opportunities consistent with efforts to conserve species and restore overfished stocks of groundfish. The Council met September 8–12, 2003 to approve final regulatory recommendations affecting recreational and commercial fishing for groundfish and associated species during 2004.

Under existing law, west coast groundfish, including rockfish and lingcod, are managed by the Council pursuant to the Pacific Coast Groundfish Fishery Management Plan (Groundfish Plan) to comply with policies and standards of the Federal Sustainable Fisheries Act, Public Law 94-265. Current federal law requires that rebuilding plans be adopted for those groundfish stocks that are determined by the Council to be overfished. Specified stocks of shelf and slope rockfish (bocaccio, cowcod, canary, and yelloweye rockfishes) and lingcod, that are generally found deeper than 20 fathoms (120 feet), are currently assessed as overfished, with rebuilding expected to take several decades in the case of some species of rockfish. Other species of finfish that occur in association with rockfishes, and for which changes in regulations are being considered for the 2004 calendar year, include California scorpionfish, ocean whitefish, cabezon, greenlings, and California sheephead. A recently completed assessment of bocaccio off California indicates improvement in the stock compared with last year providing for consideration of some relaxation of recreational and commercial fishing regulations for 2004.

Existing sportfishing regulations for groundfish and associated species (including rockfish, lingcod, cabezon, California scorpionfish, California sheephead, greenlings, and ocean whitefish) include size and bag limits, and designate when and where (season and depths) they may be taken and possessed. Existing regulations establish boundaries and provisions for fishing in the Northern, Central and Southern Rockfish and Lingcod Management Areas (RLMAs), Cowcod Conservation Areas, and the California Rockfish Conservation Area. Regulations currently authorize the Department of Fish and Game (Department) to close sport fishing for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish if the Depart-

ment determines that annual harvest limits adopted as regulation by the National Marine Fisheries Service for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish are exceeded, or are projected to be exceeded.

The proposed changes would, in most cases, lessen fishing restrictions on the recreational take and possession of groundfish and associated state-managed species in response to recent assessments of the status of some groundfish species. Regulation changes being considered by the Commission include adjustments to authorized fishing seasons and depths for rockfish, lingcod and associated species within the Central and Southern RLMAs. Also being considered are changes in bag limits for bocaccio, canary and yelloweye rockfishes, and exceptions to season and area closures. In addition, sections dealing with bag limits and with season and area closures in management and conservation areas have been reorganized in an effort to make them easier for the public to understand.

More specifically, the proposed changes to recreational fishing regulations in waters off California include the following:

- Set the daily bag limit for canary and yelloweye rockfishes in the area from 42°00' North latitude (California-Oregon border) south to 40°10' North latitude (near Cape Mendocino) at zero. [*Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.*]
- Allow one bocaccio to be retained in the rockfish bag limit in the area from 40°10' North latitude (near Cape Mendocino) to the U.S.-Mexico border (current limit is zero). [*Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.*]
- In the Central RLMA, provide for a 10-month season (January, February, and May through December) for rockfishes (except canary, cowcod, and yelloweye), cabezon, greenlings (of the genus *Hexagrammos*), lingcod and California scorpionfish with the following depth constraints and area closures:
  - Allow fishing only in waters less than 30 fathoms (180 feet) during January, February, and September through December;
  - Allow fishing only in waters less than 20 fathoms (120 feet) during May through August;
  - Prohibit fishing in waters less than 10 fathoms (60 feet) around the Farallon Islands and Noonday Rock; and
  - Prohibit fishing in all waters of Cordell Bank. [*Conformance with federal regulations; amendment adopted by the Council on September 12, 2003.*]

- In the Southern RLMA, provide for a 10-month season (March through December) for rockfishes (except canary, cowcod, and yelloweye), cabezon, greenlings (of the genus *Hexagrammos*), and lingcod; and provide for a 4-month season (March, April, November and December) for California scorpionfish. During the open periods, allow fishing only in waters less than 60 fathoms (360 feet), except in the Cowcod Conservation Areas, where fishing would continue to only be allowed in waters less than 20 fathoms (120 feet). [*Conformance with federal regulations; adopted by the Council on September 12, 2003.*]
- In the Southern RLMA, remove the provision allowing fishing for California scorpionfish at Huntington Flats in waters less than 50 fathoms. [*Conformance with federal regulations; adopted by the Council on September 12, 2003.*]
- Describe the 10-, 20-, and 30-fathom depth constraints in the Central RLMA by general depth contour lines, and describe the 60-fathom depth constraint in the Southern RLMA by lines connecting waypoints adopted in federal regulations (50 CFR Part 660).
- For ocean whitefish (a state-managed species), the following options are proposed in the Central RLMA and Southern RLMA:
  - Option 1 (preferred option)—Align the ocean whitefish seasons and fishing depths with rockfish and lingcod seasons and fishing depths. [*Help achieve groundfish management goals.*]
  - Option 2—Provide for a year-round fishery, and allow fishing only in waters less than 20 fathoms (120 feet). [*Exemptions to proposed or existing depth or season constraints.*]
  - Option 3—Provide for a year-round fishery, and allow fishing only in waters less than 60 fathoms (360 feet). [*Exemptions to proposed or existing depth or season constraints.*]
  - Option 4—Provide for a year-round fishery with no depth constraints. [*Exemptions to proposed or existing depth or season constraints.*]
- For California sheephead (a state-managed species), the following options are proposed in the Central RLMA and Southern RLMA:
  - Option 1 (*status quo*; no change to current regulations)—Provide for a year-round fishery with no depth constraints. [*Exemptions to proposed or existing depth or season constraints.*]
  - Option 2 (preferred option)—Align the California sheephead seasons and fishing depths with rockfish and lingcod seasons and fishing depths. [*Help achieve groundfish management goals.*]
  - Option 3—Provide for a year-round fishery, and

allow fishing only in waters less than 20 fathoms (120 feet). [*Exemptions to proposed or existing depth or season constraints.*]

- Option 4—Provide for a year-round fishery, and allow fishing only in waters less than 60 fathoms (360 feet). [*Exemptions to proposed or existing depth or season constraints.*]
- Exempt shore-based recreational divers and anglers from seasonal closure periods for rockfish, lingcod and associated species including cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, California sheephead, and ocean whitefish. The following options are proposed to clarify the activities that would be authorized under the exemption for shore-based divers and anglers:
  - Option 1—Does not allow the use of any watercraft.
  - Option 2—Authorizes the use of only non-motorized watercraft deployed from shore for spearfishing, and prohibits all types of fishing gear except spearfishing gear aboard the watercraft. [*Exemptions to proposed or existing depth or season constraints.*]
- Add cabezon to the list of recreational fisheries that may be closed by the Department in-season when the Department determines that the federal annual harvest limit has been exceeded or is projected to be exceeded.
- Modify the structure and/or organization of sections 27.60, 27.82, and 27.83 to improve clarity and increase public understanding of these regulations, and make some technical changes to the sections 27.82 and 27.83 to clarify the intent of these regulations.

#### Section 27.60

- In the subsection on special limits (subsection (b)(3)), the listings of bag limits for each species or group were put in tabular form for easy reading.

#### Section 27.82

- Reorganize the structure the section to simplify and clarify the regulations. The general RLMA boundaries are in subsection (a), the seasons and depth constraints are in subsection (b), the exceptions to these provisions are in subsection (c), the definitions of areas and special rules relating to the protection of cowcod are in subsection (d), and a description of the closure process is in subsections (e) and (f).
- Add the following *status-quo* exemption for clarity: vessels that have rockfish, lingcod, or associated species aboard may transit in waters deeper than those where fishing is authorized provided that no fishing gear is deployed.



- Remove the separate provision for the Northern RLMA that specifies when the federal harvest guideline for canary rockfish or yelloweye rockfish is reached or projected to be exceeded, the retention of canary and yelloweye will be prohibited and waters 27 fathoms or greater may be closed to fishing for rockfish and lingcod. It is no longer needed, because the proposed regulations prohibit the retention of canary and yelloweye rockfishes in the Northern RLMA, and existing regulations provide for closing all or part of each RLMA if a harvest guideline has been exceeded or is projected to be exceeded.
- Clarify that an annual harvest limit can be an optimum yield (OY) or a harvest guideline.

#### Section 27.83

- Add language stating that the Section serves to regulate the use of recreational fishing gear in areas which, during specified months and in specified water depths, are closed to fishing for rockfish and associated species.
- Remove the definitions of the management areas and refer to the definitions in Section 27.82.
- Modify the regulation to clarify that vessels may transit the California Rockfish Conservation Area and Cowcod Conservation Areas with prohibited gear provided that no gear is in the water.
- Remove the reference to an outer boundary to simplify and standardize the recreational gear restrictions in all waters, times and areas not open to fishing for rockfish and lingcod.
- minor editorial changes are also proposed in sections 28.27, 28.28, 28.29, 28.54, and 28.58 to improve the clarity and consistency of the regulations.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California on Friday, November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 31, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than November 7, 2003 at the hearing in San Diego, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review

from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Sherrie at the preceding address or phone number. Ms. Marija Vojkovich, Offshore Ecosystem Coordinator, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed increase in the fishing season



(open periods) for rockfish and lingcod off California south of 40°10' North latitude (near Cape Mendocino) from six month in 2003 to ten months in 2004 is expected to have a positive economic benefit for recreational CPFV businesses, sportfishing shops, and gear and tackle manufacturers. The proposed four-month increase in the fishing season represents a 66 percent increase in fishing time provided in 2003.

Information from the National Marine Fisheries Service (NMFS) estimates anglers aboard CPFVs take roughly 43 percent of all ocean rockfishes caught by all recreational fishermen in northern California and 67 percent in southern California. Of all CPFV trips taken in 2002, 5.9 percent occurred in northern California in waters greater than 20 fathoms and specifically targeted rockfish and lingcod, and 0.8 percent occurred in southern California in waters greater than 20 fathoms and specifically targeted rockfish and lingcod. Based on a NMFS survey of year 2000 angler expenditures (NMFS 2001), total party boat charter fees paid annually by passengers amounted to about \$13 million and \$51 million for northern and southern California, respectively. This includes both resident and non-resident CPFV passenger expenditures.

We would expect some positive economic benefit to recreational CPFV businesses by increasing the water depths that can be fished. For example, if fishing trips increase by only 10 percent overall, as a result of extending the depth beyond 20 fathoms, we might realize an increase in CPFV revenues of \$76,700 in northern California, and \$40,800 in southern California. This is based on the percentage of CPFV passenger fee expenditures for trips at depths greater than 20 fathoms and specifically targeting rockfish and lingcod, amounting to \$767,000 (\$13 million x 5.9 percent) for northern California and \$408,000 (\$51 million x 0.8 percent) for southern California using NMFS's year 2000 expenditure data. We would also expect a positive, but unquantifiable, economic benefit for sportfishing shops and gear and tackle manufacturers due to the increase in the water depths that can be fished.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some increase in jobs could result if CPFVs are better able to operate profitably due to the reduced closure periods and increased areas available for fishing in 2004 [See comments under (a) above].

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None.  
 (e) Nondiscretionary Costs/Savings to Local Agencies: None.  
 (f) Programs Mandated on Local Agencies or School Districts: None.  
 (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.  
 (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### TITLE 17. AIR RESOURCES BOARD

#### NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE TABLES OF MAXIMUM INCREMENTAL REACTIVITY (MIR) VALUES

The Executive Officer of the Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider the adoption of proposed amendments to the Tables of Maximum Incremental Reactivity (MIR) Values.

DATE: December 3, 2003

TIME: 9:30 a.m.

PLACE: California Environmental  
 Protection Agency  
 Air Resources Board  
 Coastal Hearing Room  
 1001 "I" Street, 2<sup>nd</sup> Floor  
 Sacramento, CA 95814

This hearing will be conducted by the Executive Officer or an individual designated by her. The agenda for the hearing will be available at least 10 days before December 3, 2003.

If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-5594 or [sdorais@arb.ca.gov](mailto:sdorais@arb.ca.gov) as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

# INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to section 94700, title 17, California Code of Regulations (CCR).

## BACKGROUND

At its June 22, 2000, public hearing, the Board approved amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Products (the "Aerosol Coating Products Regulation;" sections 94520-94528, title 17, CCR), and proposed Tables of Maximum Incremental Reactivity (MIR) Values (new subchapter 8.6, section 94700 and 94701). The main component of the rulemaking was to establish reactivity limits for 36 aerosol coating categories based on the MIR scale. The amendments became legally effective on July 18, 2001.

In Resolution 00-22, which approved the rulemaking action, the Board directed the Executive Officer to review the MIR values 18 months after the effective date of amendments and every 18 months thereafter to determine if modifications to the MIR values are warranted. This is because the chemical mechanism used to calculate the MIR values is evolving and improving, as new chemical information becomes available. Since any changes to the MIR values would be technical in nature, the Board also delegated to the Executive Officer the authority to adopt regulatory amendments to the Tables of MIR Values, and to conduct public hearings and take other appropriate actions to make such amendments. This delegation of authority allows the Executive Officer (or her delegate) to conduct these activities on behalf of the multi-member Board, as provided in Health and Safety Code sections 39515 and 39516.

The existing Tables of MIR Values are based on the work of Dr. William Carter at the University of California, Riverside. The Tables of MIR Values are contained in two sections of title 17, CCR. Section 94700 contains the MIR values for individual reactive organic compounds. Section 94701 contains the MIR values for 24 different hydrocarbon solvents.

## DESCRIPTION OF THE PROPOSED REGULATORY ACTION

Staff is proposing amendments to the existing provisions contained in section 94700, title 17, CCR (section 94700). This section sets forth the MIR values used to calculate whether an aerosol coating product

meets the reactivity limits (*i.e.*, the Product-Weighted MIR (PWMIR) limits) specified in the aerosol coatings regulation. The proposed changes to section 94700 are based on updated MIR values provided by Dr. Carter, which were peer reviewed and approved by the ARB's Reactivity Scientific Advisory Committee (RSAC). The proposed amendments are intended to provide aerosol coating manufacturers with more options in their reformulation processes, while supporting the use of up-to-date reactivity science.

Staff is proposing to add 102 new compounds with their associated MIR values to section 94700. Most of the new compounds are those Dr. Carter added into his tabulation of MIR values while making assignments for the SAPRC99 mechanism for various emissions inventories. Several chemicals not currently listed were also added at the request of stakeholders. Manufacturers can use the MIR values for all of these new compounds after the proposed amendments become legally effective. Staff is proposing to remove 1,3-diethyl-5-pentyl cyclohexane from section 94700 since it was inadvertently listed in the existing Tables of MIR Values.

Staff is also proposing to update the MIR values for 14 compounds that are currently listed in section 94700. The updated MIR values are also based on research conducted by Dr. Carter. A new column labeled "New MIR Value [Effective Date]" will be added to section 94700 to display the updated MIR values for the 14 currently listed compounds, as well as the MIR values for the newly added 102 compounds.

Although staff is proposing to update the MIR values for 14 currently listed compounds, it should be noted that the currently specified MIR values for these 14 compounds must continue to be used to calculate the PWMIR of aerosol coating products until June 1, 2007. In other words, the MIR values for all compounds currently listed in section 94700 will remain unchanged, for calculation purposes, until June 1, 2007. This existing provision is set forth in the aerosol coatings regulation, section 94522(h)(2)(A), title 17, CCR, and is designed to ensure needed stability for coatings formulations. The currently specified MIR values can be found in section 94700 in the column labeled "MIR Value (July 18, 2001)." July 18, 2001, is the date that the Table of MIR Values became legally effective, and section 94522(h)(2)(A), title 17, CCR, states:

"The MIR values dated July 18, 2001 shall be used to calculate the PWMIR for aerosol coating products, and these MIR values shall not be changed until June 1, 2007."

However, all of the 102 new compounds being added to the Tables of MIR Values can be used in aerosol coatings immediately after the proposed

amendments become legally effective, as specified in the aerosol coatings regulation, section 94522(h)(2)(B), title 17, CCR, which states:

“If a new ROC is added to section 94700 or 94701, then the new ROC may be used in aerosol coating products, and the MIR value for the new ROC shall be used to calculate the PWMIR after the effective date of the MIR value.”

This provision allows formulation flexibility for aerosol coating manufacturers. To implement this provision and also be consistent with section 94522(h)(2)(A), title 17, CCR, staff is proposing to add the MIR values for the 102 new compounds to the column in section 94700 labeled “MIR Value (July 18, 2001).” Since the aerosol coatings regulation specifies that the MIR values set forth in this column shall be used to calculate the PWMIR for aerosol coatings, placing the MIR values for the 102 new compounds in this column will avoid the confusion of multiple columns in section 94700. After the amendments become legally effective, manufacturers can simply look in one column—the column labeled “MIR Value (July 18, 2001)” —to determine which MIR values must currently be used to calculate the PWMIR for aerosol coatings products. Staff is also proposing to list the MIR values for all of the compounds that can be used in aerosol coating products (*i.e.*, the 102 new compounds, the 14 compounds with updated MIR values, and all of the currently listed compounds whose MIR values remain unchanged) in the new column labeled “New MIR Value [Effective Date].” This proposed new column will allow the reader to view in one place the most recent, up-to-date MIR values for all the compounds. The MIR values listed in this column would only be used prior to June 1, 2007, if any reactivity-based rulemakings for other source categories were proposed in the future.

No change is being proposed to the MIR values for 24 different hydrocarbon solvents contained in section 94701, title 17, CCR.

There are no federal regulations that are comparable to the proposed regulations.

#### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action which includes a summary of the potential environmental and economic impacts of the proposal and supporting technical documentation. Copies of the ISOR and the full text of the proposed regulatory language may be obtained from the Board’s Public Information Office, Air Resources Board, 1001 “I” Street, Visitors and Environmental Serv-

ices Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing.

Upon completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons in the Research Division: Dr. Dongmin Luo, Air Resources Engineer, at (916) 324-8496 or [dluo@arb.ca.gov](mailto:dluo@arb.ca.gov), or Dr. Eileen McCauley, Manager, Atmospheric Processes Research Section, at (916) 323-1534 or [emccaule@arb.ca.gov](mailto:emccaule@arb.ca.gov).

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at

<http://www.arb.ca.gov/regact/mir2003/mir2003.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Board’s Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6) that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on



private persons and businesses. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the proposed amendments should have minimal or no impacts on the creation or elimination of jobs within the State of California, minimal or no impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minimal or no impacts on the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses. No negative economic impact on small businesses is expected to occur.

Finally, the Executive Officer has made an initial determination that adoption of the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California's businesses to compete with businesses in other states, or on representative private persons. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report (ISOR).

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the agency or that has been otherwise identified and brought to the Executive Officer's attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Executive Officer, written comments not physically submitted at the meeting must be received **no later than 12:00 noon, December 2, 2003**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 "I" Street, 23<sup>rd</sup> Floor  
Sacramento, California 95814

Electronic mail is to be sent to [mir2003@listserv.arb.ca.gov](mailto:mir2003@listserv.arb.ca.gov) and received at the ARB no later than 12:00 noon, December 2, 2003.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, December 2, 2003**.

The Executive Officer requests, but does not require 30 copies of any written submission. Also, the Executive Officer requests that written and e-mail statements be filed at least ten days prior to the meeting so that ARB staff and the Executive Officer have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 40000, and 41712 of the Health and Safety Code.

#### HEARING PROCEDURES

The public hearing will be conducted by the Executive Officer of the ARB, or an individual designated by her, in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code. Following the public hearing, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the Board's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990.

### TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES

#### NOTICE OF PROPOSED RULEMAKING

##### Definition of Substantial Disabilities

The Department of Developmental Services (DDS) proposes to amend Title 17 California Code of



Regulations, Division 2, Chapter 3, Subchapter 1 by amending Section 54001 and 54010.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action of DDS. The written comment period closes at 5:00 p.m. on December 1, 2003. Please submit any written comments to the DDS contact persons designated below by 5:00 p.m. on December 1, 2003. Both oral and written comments will be received at the public hearing.

#### **PUBLIC HEARINGS**

Two public hearings to receive oral and written comments are scheduled as follows:

1. November 25, 2003 at 10:00 a.m. at 320 W. Fourth Street, Los Angeles, California, Second Floor, Pacific Room.
2. December 1, 2003 at 10:00 a.m. at 744 P Street, Sacramento, California, Auditorium.

DDS requests that persons who make oral comments at the public hearing submit a written copy of their testimony at the hearings. The hearing locations have wheelchair access.

#### **AUTHORITY AND REFERENCE**

Authority: Sections 4512 and 4640, Welfare and Institutions Code.

Reference: Sections 4512, 4640, 4642, 4643, and 4644, Welfare and Institutions Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

DDS is obligated by the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code, Division 4.5, Section 4500, et seq.) to define the criteria for determining if an individual has a developmental disability and needs services and supports through a regional center. Recent amendments to the act make specific the uniform and definitive criteria for determining who is eligible for regional center services. The Department is proposing amendments to its current regulations that will clarify and specify what constitutes a substantial disability, as well as how the substantial disability determination will be utilized in eligibility determinations. The amendments are consistent with W&I Code 4512, which was amended by Assembly Bill (AB) 1762, Chapter 230, Statutes of 2003. Where necessary, regulations in affected sections have been reworded and/or restructured for clarity and consistency.

Section 54001 was amended because the definition and terminology used are obsolete. The word disability replaces the word handicap. Substantial disability is more specifically defined by the requirement that significant functional limitations be identified in at

least three of seven life areas. An additional amendment requires that any individual already receiving regional center services, who is assessed for ongoing eligibility, be reassessed using the same criteria under which the individual was originally made eligible.

Section 54010 was amended to make technical changes to clarify that the determination of a substantial disability, pursuant to Section 54001, is required for a person to be eligible for regional center services. Additional amendments to this section correct an incorrect regulatory article reference, and also an incorrect reference to statute.

#### **SMALL BUSINESS DETERMINATION**

DDS has determined that the proposed regulations affect funding of regional centers by reducing caseload growth, and therefore will not have an appreciable effect on small business.

#### **LOCAL MANDATE AND FISCAL IMPACT DETERMINATION**

DDS has determined that the proposed regulatory actions do not impose: 1) a mandate on local agencies or school districts; 2) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 3) other non-discretionary costs or savings imposed on local agencies; 4) costs or savings in federal funding to the state.

It is estimated that the proposed actions will result in savings of 2.1 million dollars annually to the state general fund by reducing the rate of regional center caseload growth.

#### **ECONOMIC IMPACT AND BUSINESS ASSESSMENT**

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will not have: 1) a significant statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states; or 2) a significant effect on housing costs.

#### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

DDS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ALTERNATIVES CONSIDERED**

DDS has determined that no reasonable alternative considered, or identified and brought to the attention of DDS, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearings.

#### **CONTACT PERSON**

Comments and inquiries concerning the proposed action or substance of the proposed action may be directed to:

Attention: John Ellis,  
Community Program Specialist II  
Early Start Local Support Section  
Department of Developmental Services  
1600 Ninth Street, Room 330, MS 3-8  
Sacramento, California 95814  
Email: [jellis1@dds.ca.gov](mailto:jellis1@dds.ca.gov)  
Phone: (916) 654-2190  
FAX: (916) 654-3255

If Mr. Ellis is unavailable, comments and inquiries concerning the proposed action or substance of the proposed action may be directed to:

Attention: Ken Freedlander, Chief  
Early Start Local Support Section  
Department of Developmental Services  
1600 Ninth Street, Room 330, MS 3-8  
Sacramento, California 95814  
Email: [kfreedla@dds.ca.gov](mailto:kfreedla@dds.ca.gov)  
Phone: (916) 654-2760  
FAX: (916) 654-3255

#### **AVAILABILITY OF RULEMAKING DOCUMENTS**

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, and Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with all other public records, reports, documentation or other material related to the proposed regulations will be contained in the rulemaking file. The rulemaking file will be available for inspection and copying throughout the rulemaking process from the contact person at the above address. In addition, the text, Initial Statement of Reasons and other materials for this rulemaking may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov).

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Please send requests for copies of any modified regulations to the contact persons named above.

#### **FINAL STATEMENT OF REASONS**

When the Final Statement of Reasons is available, it may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.

### **TITLE 18. BOARD OF EQUALIZATION**

#### **NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1616, Federal Areas, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on December 4, 2003. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 4, 2003.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Current law, Revenue and Taxation Code sections 6011 (use tax) and 6012 (sales tax), provide that sales price (use tax) and gross receipts (sales tax) include all receipts for property sold, with certain exclusions. Regulation 1616, Federal Areas, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code sections 6011(c)(12) and 6012(c)(12), enacted by AB 2701 (Stats. 2002, Ch. 593).

Specifically, it is proposed that subdivision (d)(3)(C) be added to Regulation 1616 to provide that, operative January 1, 2003, the sales price or gross receipts subject to the California sales or use tax do not include the amount of tax imposed by an Indian tribe

on its reservation with respect to a retail sale of tangible personal property on the Indian tribe's reservation, provided that the retailer is in substantial compliance with the Sales and Use Tax Law.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any cost to local agency or school district that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of proposed Regulation 1616 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete in other states.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulation may affect small business.

#### COST IMPACT ON PRIVATE PERSON OR BUSINESSES

That Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Regulation 1616 and the proposed changes have no comparable federal regulations.

#### AUTHORITY

Section 7051, Revenue and Taxation Code.

#### REFERENCE

Sections 6011 and 6012 Revenue and Taxation Code.

#### CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA

95814, e-mail [Mariflor.Jimenez@boe.ca.gov](mailto:Mariflor.Jimenez@boe.ca.gov) or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail [Karen.Anderson@boe.ca.gov](mailto:Karen.Anderson@boe.ca.gov) or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

#### ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

#### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any



modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION  
Fish and Game Code Section 2080.1  
CESA No. 2080-2003-022-03

PROJECT: Rattlesnake Creek Culvert Repair  
LOCATION: Rattlesnake Creek at State Route 101,  
Post Mile 84  
NOTIFIER: California Department of  
Transportation

#### BACKGROUND

The California Department of Transportation (Caltrans) proposes to replace the bottom of an existing double arch culvert, repair and elevate the outlet weir, and repair the footing at the upstream debris rack where Rattlesnake Creek crosses under State Route 101 at Post Mile 84 in Mendocino County. The repair of the culvert will consist of replacing the bottom of the south barrel with a new reinforced concrete slab approximately 300mm thick. The inlet of the new slab will be lowered 300mm from the existing condition and the outlet of the new slab lowered 150mm. The bottom of the north tunnel will be covered with 300mm of concrete and reinforced with a welded wire mesh. The existing weir will be completely replaced with a new thicker structure with a slope on the upstream side. The weir opening will be 150mm higher than the floor to create a pool that will provide fish passage through the culvert during low flow periods.

The proposed project could result in direct and indirect incidental take of Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*) ("SONCC coho salmon"). The SONCC coho salmon Evolutionary Significant Unit ("ESU") consists of populations from Cape Blanco, Oregon, south to Punta Gorda, California. The work will require dewatering the worksite during construction and the dewatering is proposed in two parts. The double arch culvert and weir area will be dewatered by placing a

coffer dam at the inlet of the culvert and diverting flows through the arch culvert and past the weir via a plastic pipe back into Rattlesnake Creek. A second coffer dam will be constructed below the weir to prevent waters from entering the work area around the culvert. The area around the debris rack will be isolated using coffer dams composed of sandbags and plastic. The stream flow will be diverted around the site via a plastic pipe and into the pool between the debris rack and double arch culvert.

The SONCC coho salmon ESU is listed as threatened under the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On August 30, 2002, the Fish and Game Commission ("Commission") determined that coho salmon in California warranted listing as a threatened species north of Punta Gorda and as an endangered species south of Punta Gorda under the California Endangered Species Act ("CESA") (Fish & G. Code, § 2050 et seq.). The Commission subsequently directed the Department of Fish and Game ("Department") to develop a recovery strategy for coho salmon.

Because of the project's potential for take of listed coho salmon, the U.S. Army Corps of Engineers consulted with the National Marine Fisheries Service (NOAA Fisheries), as required by ESA. On May 16, 2003 NOAA Fisheries issued Biological Opinion No. 151422-SWR-02-SR-8263 for the State Route 101 Rattlesnake Creek Culvert Repair, describing the actions and setting forth measures to mitigate impacts to SONCC coho salmon. On September 8, 2003 the Department received a notice from Caltrans pursuant to Fish and Game Code Section 2080.1, requesting a determination that the Federal Biological opinion is consistent with CESA.

#### DETERMINATION

The Department has determined that the Federal Biological Opinion No. 151422-SWR-02-SR-8263 is consistent with CESA for Chinook salmon and coho salmon because the project measures described in that Opinion meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. The Department specifically finds that the measures identified in the Biological Opinion will minimize and fully mitigate the project's potential impacts on Chinook salmon and coho salmon. These measures include, but are not limited to, the following requirements:

1. Construction in the creek's channel will occur between July 1 and September 30, 2004. This work window will minimize impacts to migrating salmon in Rattlesnake Creek.

2. Caltrans will repair the debris rack after the other repairs are complete in order to ensure the work is done during the period of lowest possible creek flow minimizing impacts to salmon.
3. The weir at the outlet of the culvert will be replaced and strengthened and the opening will be raised 150mm above the present level.
4. The inlet of the new slab in the south barrel will be lowered 300mm from the existing condition and the outlet of the new slab lowered 150mm. This lowering of the inlet and outlet of the culvert from its present condition combined with the raising of the weir will cause water to pool in the south barrel up to the inlet in low flow conditions permitting year-round fish passage.

Pursuant to Fish and Game Code section 2080.1, no further authorization will be required under CESA for incidental take of Chinook salmon and SONCC coho salmon for the project, provided that Caltrans implements the project as described in the biological opinion and complies with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project, including changes to the mitigation measures, or if NOAA Fisheries amends or replaces the biological opinion, Caltrans will be required to obtain a new consistency determination or a CESA incidental take authorization from the Department.

## DEPARTMENT OF FISH AND GAME

### CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

Tracking Number 2080-2003-021-01

PROJECT: Trinity River Bridges Replacement Project in Trinity County

LOCATION: Salt Flat, Bucktail, Poker Bar, and Biggers Road Bridges in Trinity County

NOTIFIER: Trinity County

### BACKGROUND

Working with the U.S. Bureau of Reclamation's Trinity River Restoration Program ("TRRP"), Trinity County is proposing to modify or replace, as necessary, the Salt Flat, Bucktail, Poker Bar, and Biggers Road Bridges across the Trinity River in order to accommodate possible future operational changes to the Trinity River Division of the Central Valley Project ("project"). The project could result in direct and indirect incidental take of Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*) ("SONCC coho salmon"). The SONCC coho salmon Evolutionary Significant Unit ("ESU") consists of populations from

Cape Blanco, Oregon, south to Punta Gorda, California. Direct take could occur both by adult and juvenile mortality and loss of redds. Indirect take could occur by short-term detrimental changes to aquatic habitat parameters, including substrate quality, turbidity, and suspended sediment levels. Such habitat modification or degradation could adversely affect the essential behavioral patterns of the SONCC coho salmon ESU, including breeding, spawning, rearing, migrating, feeding, and sheltering.

The SONCC coho salmon ESU is listed as threatened under the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On August 30, 2002, the Fish and Game Commission ("Commission") determined that coho salmon in California warranted listing as a threatened species north of Punta Gorda and as an endangered species south of Punta Gorda under the California Endangered Species Act ("CESA") (Fish & G. Code, § 2050 et seq.). The Commission subsequently directed the Department of Fish and Game ("Department") to develop a recovery strategy for coho salmon.

Because of the project's potential for take of listed coho salmon, TRRP consulted with the National Oceanic and Atmospheric Administration Fisheries Service ("NOAA Fisheries"), as required by ESA. On July 11, 2003, NOAA Fisheries issued to TRRP a "no jeopardy" biological opinion (151422SWR02AR6360:MK) ("biological opinion"). The biological opinion describes the project and sets forth measures to mitigate impacts to coho salmon and coho salmon habitat in the vicinity of the bridges that will be modified or replaced. On August 25, 2003, the Department's Director received a notice from Trinity County Planning Department's Natural Resources Division in Hayfork pursuant to Fish and Game Code section 2080.1, requesting a determination that the biological opinion is consistent with CESA.

### DETERMINATION

The Department has determined that the biological opinion is consistent with CESA because the project and mitigation measures it describes meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of species protected under CESA. Specifically, the Department finds that the take of SONCC coho salmon will be incidental to an otherwise lawful activity (i.e., the modification or replacement of the Flat, Bucktail, Poker Bar, and Biggers Road Bridges); the mitigation measures identified in the biological opinion will minimize and fully mitigate the impacts of the authorized take of SONCC coho salmon; and the project will not jeopardize the continued existence

of SONCC coho salmon. The minimization and mitigation measures in the biological opinion include, but are not limited to, the following:

1. To minimize the amount and extent of incidental take from project activities within and adjacent to the Trinity River, activities in the Trinity River shall not occur before June 15 or after September 15, except for work at Salt Flat Bridge. At Salt Flat Bridge, potential spawning habitat located in areas where instream work will occur after September 15 will be closed off to spawning salmonids by placement of anti-spawning mats or fencing prior to September 1. Activities in the water at this location shall not continue after February 15. Water pumping activities in locations which may contain SONCC coho salmon shall conform to NOAA Fisheries's water drafting guidelines.
2. Gravel used for construction of temporary crossings or work platforms shall be clean spawning-sized gravel and will be allowed to wash out naturally or, if appropriate, redistributed and contoured following completion of bridge construction. Providing additional spawning substrate will fully mitigate any potential loss of SONCC coho salmon.
3. Best management practices for erosion and pollution control shall be developed and implemented to minimize the movement of soils and sediment both into and within the river.
4. Loss of instream habitat shall be minimized by maintaining pools and avoiding, when possible, disturbance to large woody debris ("LWD"). Any LWD removed from the river shall be placed so as to allow natural redistribution during high flows.
5. To minimize the amount and extent of take from project activities on the temporary crossings and construction platforms, heavy equipment crossings shall be minimized and occur in conjunction with activities designed to gently move any rearing juvenile salmonids out of harm's way.
6. Upstream and downstream anadromous fish passage shall be maintained at all times.

Pursuant to Fish and Game Code section 2080.1, no further authorization will be required under CESA for incidental take of SONCC coho salmon for the project, provided that Trinity County implements the project as described in the biological opinion and complies with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project, including changes to the mitigation measures, or if NOAA Fisheries amends or replaces the biological opinion, Trinity

County will be required to obtain a new consistency determination or a CESA incidental take authorization from the Department.

## PROPOSITION 65

### CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

#### SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

#### NOTICE TO INTERESTED PARTIES

##### Availability of Draft Data Summaries and Draft Priorities For Chemicals With Respect to Their Potential to Cause Cancer: Request for Relevant Information

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), as lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), has developed a procedure for prioritizing chemicals for consideration under Proposition 65 by the "State's qualified experts." Two committees of the Science Advisory Board (SAB), known as the Carcinogen Identification Committee, and the Developmental and Reproductive Toxicant Identification Committee, serve as the State's qualified experts for rendering an opinion as to whether a chemical is known to the State to cause cancer, birth defects or other reproductive harm.

The procedure used by OEHHA to identify, prioritize and select candidate chemicals for evaluation by the SAB Committees is described in, "Procedure for Prioritizing Candidate Chemicals for Consideration Under Proposition 65 by the State's Qualified Experts," May 1997 and is available on the Internet at <http://www.oehha.ca.gov>. In accordance with this procedure, prioritized chemicals with a final priority of High Carcinogenicity Concern are assigned to the Candidate List, from which chemicals will be chosen for the preparation of hazard identification documents, and subsequent evaluation by the Carcinogen Identification Committee. All chemicals not assigned a final "high" level of carcinogenicity concern are assigned to Category II. Here draft priorities are identified as either "High" Carcinogenicity Concern, or "Not High" enough to merit placement on the Candidate List.



With this notice we are announcing the release of draft data summaries and draft priorities concerning the potential for the chemicals indicated below to cause cancer. This notice initiates a 60-day public comment period. These 50 chemicals were selected for prioritization as described in OEHHA's Notice to Interested Parties: Results of the Third Round Pilot Random Selection of the Chemicals Eligible for Prioritization For Consideration of Carcinogenicity Evaluation, published in the *California Regulatory Notice Register* (Register 01, No. 45-Z) on November 9, 2001. The chemicals and their draft priorities are as follows:

Name of Chemical	CAS No.
<b>On Candidate List due to HIGH CARCINOGENICITY CONCERN</b>	
4-Amino-N-(4,6-dimethyl-2-pyrimidinyl) benzene sulfonamide (sulfamethazine)	57-68-1
2-Chloro-1,1,1-trifluoroethane (HCFC-133a)	75-88-7
Ciprofibrate	52214-84-3
Diallate	2303-16-4
Diitalone	21626-89-1
3,6-Dinitrobenzo[a]pyrene	128714-76-1
1,2-Epoxybutane	106-88-7
4-Hydroxybenzenediazonium and its salts	19089-85-1
Methimazole	60-56-0
4-Methylbenzenediazonium and its salts	57573-52-1
Molybdenum trioxide	1313-27-5
4-Nitrotoluene ( <i>p</i> -nitrotoluene)	99-99-0
Nucleoside analogues, specifically: 3'-Azido-3'-deoxythymidine (AZT, zidovudine) 2',3' -Dideoxycytidine (ddC, zalcitabine) Stavudine (d4T) Trifluridine	30516-87-1 7481-89-2 3056-17-5 70-00-8
Propoxur (Baygon)	114-26-1
Titanium dioxide	13463-67-7
1,2,4-Trichlorobenzene	120-82-1
Verapamil	52-53-9

Name of Chemical	CAS No.
<b>Category II (Not HIGH CARCINOGENICITY CONCERN)</b>	
Acephate	30560-19-1
Acetoxymethylphenylnitrosamine	81943-37-5
<i>trans</i> -Anethole	4180-23-8
Aspartame	22839-47-0
1-Benzoyl-2,6-dimethyl-4-nitrosopiperazine	61034-40-0
Chloroacetic acid	79-11-8
Chloromethane (methyl chloride)	74-87-3

Cholestyramine	11041-12-6
Clofentizine	74115-24-5
Cycloate	1134-23-2
3,4-Dihydrocoumarin	119-84-6
Dimethipin (Harvade)	55290-64-7
Flutamide	13311-84-7
Indolidan	100643-96-7
Isomazole and isomazole hydrochloride	86315-52-8; 87359-33-9
Isoniazid	54-85-3
Levobunolol and its salts	47141-42-4
Mecoprop and its salts	7085-19-0
Methyl methacrylate	80-62-6
Nicotine	54-11-5
3-Nitrofluoranthene	892-21-7
Orlistat	96829-58-2
Oxyfluorfen (Goal)	42874-03-3
Pyrimethamine (Daraprim)	58-14-0
Mineral fibers, manmade: now referred to as Synthetic vitreous fibers Rockwool (stonewool) Slagwool Continuous glass filaments	—
Tralkoxydim	87820-88-0
Triethanolamine	102-71-6
Triflusulfuron-methyl	126535-15-7
Vitamin K (by injection in neonates)	12001-79-5
<b>INADEQUATE DATA to establish level of concern</b>	
Pimozide	2062-78-4
<b>POSTPONED</b>	
Chromium picolinate (awaiting completion of NTP Bioassay)	14639-25-9
<i>Fusarium moniliforme</i> ( <i>Fusarium verticillioides</i> ), toxins derived from (candidate for administrative listing)	—
Sodium nitrite (review being completed)	7632-00-0

OEHHA also announces that a public workshop to receive external scientific peer review and public comments on the draft data summaries and draft priority assignments for these chemicals will be held on **Wednesday, November 19, 2003**. The workshop will commence at 10:00 a.m. in Room 11, Second Floor, Elihu Harris State Building, 1515 Clay Street, Oakland, California, and will last until all business has been conducted or until 5:00 p.m.

OEHHA is committed to public participation and external scientific peer review in its implementation of Proposition 65, and welcomes public input. The draft data summaries and draft priority assignments for these chemicals are available from the Proposition 65

Implementation Office at the address and telephone number indicated below, or from the Internet at the following address: <http://www.oehha.ca.gov>.

Written comments may be submitted **in triplicate** to:

Ms. Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
Street Address: 1001 I Street  
Sacramento, California 95814  
Mailing Address: P.O. Box 4010  
Sacramento, California 95812-4010  
Fax No.: (916) 323-8803  
Telephone: (916) 445-6900

**In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if delivered in person or sent by FAX) by 5 p.m. Tuesday, December 16, 2003.**

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING Field Training Program

This is the certification of compliance for an action intended to delay for one year the implementation of previously adopted changes in the learning content that police departments must include in their field training programs in order to secure POST approval.

Title 11  
California Code of Regulations  
AMEND: 1004, 1005  
Filed 10/07/03  
Effective 10/07/03  
Agency Contact: Leah Cherry (916) 227-3891

#### DEPARTMENT OF FOOD AND AGRICULTURE Citrus Maturity Standards

Existing regulations provide packers with two color options (a) and (b), for determining the maturity of oranges at the time of harvest. This rulemaking deletes

all references pertaining to orange color (b) and adds criteria for reconditioning fruit that has failed to meet color (a) at the time of harvest.

Title 3  
California Code of Regulations  
AMEND: 1430.35, 1430.36  
Filed 10/06/03  
Effective 10/06/03  
Agency Contact: Sonja A. Dame (916) 445-2180

#### DEPARTMENT OF FOOD AND AGRICULTURE Definition of Remanufactured Devices

In this regulatory action, the Division of Measurement Standards of the Department of Food and Agriculture amends its regulation which sets forth the provisions of the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," which are not adopted or incorporated by reference.

Title 4  
California Code of Regulations  
AMEND: 4001  
Filed 10/02/03  
Effective 11/01/03  
Agency Contact: Roger Macey

#### DEPARTMENT OF INDUSTRIAL RELATIONS Workers' Compensation—Audit

Labor Code sections 129 and 129.5 provide for the audit and imposition of penalties against claims administrators who fail to meet their obligations to promptly and accurately provide injured workers with the compensation to which they are entitled. This regulatory action makes revisions to the regulations implementing Labor Code sections 129 and 129.5.

Title 8  
California Code of Regulations  
AMEND: 10104, 10107.1, 10111.2  
Filed 10/06/03  
Effective 12/01/03  
Agency Contact:  
Destie Overpeck (415) 703-4659

#### DEPARTMENT OF JUSTICE Olympic Pistol Exemptions

This action establishes the procedure for exempting additional handguns used in Olympic target shooting competition from the "assault weapon" definition in Penal Code section 12276.1 and/or the "unsafe handgun" provisions of Penal Code sections 12125 through 12133.

Title 11  
California Code of Regulations  
ADOPT: 995

Filed 10/01/03  
 Effective 10/01/03  
 Agency Contact: Jeff Amador (916) 227-3705

**FAIR POLITICAL PRACTICES COMMISSION**

Governmental Decision: Segmentation

The Fair Political Practices Commission is adopting section 18709 of title 2, California Code of Regulations, pertaining to segmenting a decision in which a public official has a financial interest to allow participation by the official.

Title 2  
 California Code of Regulations  
 ADOPT: 18709  
 Filed 10/02/03  
 Effective 10/02/03  
 Agency Contact:  
 Natalie Bocanegra (916) 322-5660

**FAIR POLITICAL PRACTICES COMMISSION**

Technical Cleanup

This action makes various editorial and technical clean-up amendments.

Title 2  
 California Code of Regulations  
 AMEND: 18320, 18321, 18361, 18370, 18419, 18420, 18703.1, 18747  
 Filed 10/06/03  
 Effective 10/06/03  
 Agency Contact: Kelly Winsor (916) 327-0268

**FISH AND GAME COMMISSION**

Commercial Sea Urchin Fishery

On August 2, 2003 the Fish and Game Commission (Commission) adopted a regulatory action which revised the existing commercial sea urchin regulations in title 14 in response to suggestions made by the industry and four days later submitted this regulatory action to the Office of Administrative Law (OAL) for review. On September 2, 2003, the Commission withdrew proposed changes to subsection (a) of section 120.7 and subsection (c) of section 190 in order to make them available to the public for 15 days and on the same day OAL approved and filed the remainder of the regulatory action with the Secretary of State. The proposed change to subsection (a) of section 120.7 provides for diver participation in the take of red sea urchins for purposes of sea urchin management or research and the proposed change to subsection (c) of section 190 specifies when fishing activity records must be postmarked by. After making the proposed changes to subsection (a) of 120.7 and subsection (c) of section 190 available to the public for a 15 day availability period and having received no comments on the proposed changes, the Commission resubmitted the withdrawn subsections to OAL for review.

Title 14  
 California Code of Regulations  
 AMEND: 120.7, 190  
 Filed 10/06/03  
 Effective 11/05/03  
 Agency Contact: John M. Duffy (916) 653-4899

**CCR CHANGES FILED WITH THE  
 SECRETARY OF STATE  
 WITHIN JUNE 04, 2003  
 TO OCTOBER 08, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

07/01/03 AMEND: 1038

**Title 2**

10/06/03 AMEND: 18320, 18321, 18361, 18370, 18419, 18420, 18703.1, 18747

10/02/03 ADOPT: 18709

09/15/03 ADOPT: 18951

09/12/03 AMEND: 37000

08/29/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153

08/28/03

08/25/03 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145

08/18/03 AMEND: 599.515

08/14/03 ADOPT: 18531.5

08/13/03 AMEND: 41000

08/01/03 ADOPT: 22100, 22110, 22120, 22130

07/29/03 AMEND: 18404.1

07/14/03 AMEND: 649.11

07/14/03 AMEND: 56800

07/14/03 AMEND: Chapter 55, Section 54400

07/07/03 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2

06/19/03 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145

06/16/03 ADOPT: 18530.2

06/13/03 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166,



1859.166.1, 1859.167, 1859.168,  
1859.169, 1859.170, 1859.171 AMEND:  
1859.2, 1859.51, 1859.103, 1859.106,  
1859.145.1

06/12/03 AMEND: 1555

06/12/03 AMEND: 1859.77.2

06/12/03 ADOPT: 18329.5

06/10/03 ADOPT: 18702.5 AMEND: 18702,  
18702.1

06/04/03 ADOPT: 649.23, 649.24, 649.25

### **Title 3**

10/06/03 AMEND: 1430.35, 1430.36

09/30/03 AMEND: 3651, 3655, 3658, 3662

09/29/03 AMEND: 3055.6(c)

09/25/03 AMEND: 3417

09/11/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784

08/26/03 ADOPT: 1310, 1310.1, 1310.2, 1310.3

08/26/03 AMEND: 1380.19 (b), (q), (r), (t),  
1402.12, 1446.7, 1454.14, 1462.15

08/21/03 ADOPT: 820, 820.1, 820.2, 820.3, 820.4,  
820.5, 820.6, 820.7, 820.8

08/12/03 AMEND: 4500

07/29/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4,  
760.5, 760.6, 760.7, 760.8, 760.9

07/28/03 ADOPT: 3650, 3651, 3652, 3653, 3654,  
3655, 3656, 3657, 3658, 3659, 3660,  
3661, 3662, 3663, 3663.5

07/24/03 AMEND: 3417(b)

07/10/03 AMEND: 3700(c)

07/08/03 AMEND: 3700(c)

07/03/03 ADOPT: 755, 755.1, 755.2, 755.3, 755.4,  
755.5, 755.6, 756, 756.1, 756.2, 756.3,  
757, 758, 758.1, 759 AMEND: 753.2  
REPEAL: 757, 759, 759.1, 759.2, 759.3,  
759.4, 759.5

06/26/03 AMEND: 3417(b)

06/12/03 AMEND: 3423(b)

### **Title 4**

10/02/03 AMEND: 4001

09/23/03 ADOPT: 2100, 2101, 2102, 2103, 2104,  
2105 AMEND: 1928

09/18/03 AMEND: 1979.1

09/16/03 AMEND: 1867

09/08/03 ADOPT: 12300, 12301, 12302, 12303,  
12304, 12305, 12306, 12307, 12308,  
12309, 12310 AMEND: 12301, 12303

09/02/03 AMEND: 2000

08/25/03 ADOPT: 12250

08/18/03 AMEND: 12101, 12122

07/14/03 ADOPT: 10151, 10152, 10153, 10154,  
10155, 10156, 10157, 10158, 10159,  
10160, 10161, 10162

06/26/03 AMEND: 12100, 12101, 12104, 12105,  
12120, 12122, 12124, 12126, 12128,  
12130, 12132, 12140, 12142

06/16/03 ADOPT: 12370

### **Title 5**

09/23/03 ADOPT: 18270.5, 18280, 18281  
AMEND: 18023, 18272, 18273, 18274,  
18275, 18279

09/11/03 ADOPT: 76215 AMEND: 76000, 76010,  
76120, 76130, 76200, 76210 REPEAL:  
76100, 76110

09/04/03 ADOPT: 18074, 18074.1, 18074.2,  
18074.3, 18075, 18075.1, 18075.2,  
18076, 18076.1, 18076.2 AMEND:  
18413, 18428 REPEAL: 18021

08/26/03 ADOPT: 11971, 11972, 11973, 11974,  
11975, 11976, 11977, 11978, 11979,  
11979.5

07/31/03 AMEND: 80014, 80015, 80015.1, 80023  
REPEAL: 80085, 80085.1, 80086, 80087,  
80088, 80412, 80413.2, 80414, 80422,  
80680-80690.1

07/21/03 ADOPT: 1068-1074

07/18/03 ADOPT: 80473, 80473.1

07/03/03 AMEND: 51023.5

06/20/03 ADOPT: 13075

06/16/03 ADOPT: 9531, 9532

### **Title 7**

07/23/03 AMEND: 213(i)

### **Title 8**

10/06/03 AMEND: 10104, 10107.1, 10111.2

08/26/03 AMEND: 3273

08/25/03 AMEND: 2561.31, 2561.32, 4885, 5022

08/04/03 ADOPT: 3458 AMEND: 3437

07/31/03 AMEND: 1532, 1532.1, 1535, 5198,  
5200, 5201, 5207, 5211, 5214, 5218,  
5220

07/28/03 AMEND: 3016, 3120.6, 2122.0

07/24/03 AMEND: 1532.1

07/21/03 AMEND: 5557

07/11/03 AMEND: 1504, 1637

07/11/03 ADOPT: 5248, 5252.1, 5253.1, 5298.1,  
5307, 5308 AMEND: 1504, 5236, 5237,  
5238, 5239, 5240, 5241, 5242, 5243,  
5244, 5245, 5246, 5247, 5251, 5252,  
5253, 5254, 5256, 5257, 5258, 5262,  
5267, 5268, 5269, 5270, 5276, 5277,  
5278, 5279, 5280, 5291, 5292, 5293,

07/03/03 ADOPT: 5006.1 AMEND: 5006

07/03/03 AMEND: 1635, 1710

06/26/03 AMEND: 421, 422, 422.1, 423, 424.1,  
424.2, 424.3, 424.4, 425.1, 425.2, 426,  
427.1, 427.2, 427.3, 427.4, 428

06/12/03 ADOPT: 3195. 3195.2, 3195.3, 3195.4  
3195.5, 3195.6, 3195.7, 3195.8, 3195.9,  
3195.10, 3195.11, 3195.12, 3195.13,  
3195.14  
06/09/03 AMEND: 344.30

**Title 9**

06/19/03 ADOPT: 1840.112 AMEND: 1830.215  
06/05/03 ADOPT: 880, 881, 882, 883, 884, 885,  
886, 890, 891, 892

**Title 10**

09/11/03 ADOPT: 250.70  
09/09/03 AMEND: 2498.6  
09/09/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
2278.4, 2278.5  
09/05/03 ADOPT: 2791.3, 2792.33, 2810.3, 2836,  
2860 AMEND: 2731, 2790.5, 2791.8,  
2792.26, 2848, 2853, 2910, 2911, 2912,  
2930, 2950, 3000, 3006  
09/04/03 ADOPT: 2698.30, 2698.31, 2698.32,  
2698.33, 2698.34, 2698.35, 2698.36,  
2698.37, 2698.38, 2698.39, 2698.40,  
2698.41, 2698.42 REPEAL: 2698.40,  
2698.41, 2698.42, 2698.43, 2698.44,  
2698.45  
09/02/03 AMEND: 2498.6  
08/28/03 AMEND: 2498.6  
08/26/03 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,  
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,  
2192.10, 2192.11, 2192.12, 2192.13  
08/25/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
2278.4, 2278.5  
08/21/03 ADOPT: 2175.6, 2175.7, 2175.8, 2175.9,  
2178  
08/21/03 ADOPT: 2187.4  
08/12/03 AMEND: 2615.3  
08/04/03 ADOPT: 2698.102, 2698.600, 2698.602,  
2698.604 AMEND: 2698.100, 2698.200,  
2698.201, 2698.202, 2698.203, 2698.204,  
2698.205, 2698.206, 2698.207, 2698.208,  
2698.300, 2698.301, 2698.302, 2698.303,  
2698.401, 2698.403, 2698.405, 2698.407,  
2698.500, 2698.201,  
07/31/03 ADOPT: 2699.6612, 2699.6827  
AMEND: 2699.6500, 2699.6600,  
2699.6607, 2699.6611, 2699.6705,  
2699.6715, 2699.6717, 2699.6725,  
2699.6813, 2699.6815, 2699.6819  
07/29/03 AMEND: 5002, 5009, 5010  
07/21/03 ADOPT: 1709.1, 1717.2, 1730.1, 1737.1,  
1737.2, 1738.6 AMEND: 1710, 1717.2,  
1726, 1730, 1732.2, 1737, 1737.1,  
1737.3, 1738, 1738.2, 1738.3, 1738.5,  
1740.1, 1740.4, 1741.1  
07/21/03 ADOPT: 2361  
07/15/03 ADOPT: 2716.1, 2790.1.5, 2805.1.5  
07/14/03 ADOPT: 2020, 2021 AMEND: 250.51

07/14/03 AMEND: 2190.05, 2190.7  
07/11/03 ADOPT: 2194, 2194.1, 2194.2, 2194.3,  
2194.4, 2194.5, 2194.6, 2194.7, 2194.8  
07/03/03 AMEND: 260.102.14  
07/03/03 AMEND: 2498.2  
06/19/03 AMEND: 5.2001  
06/10/03 ADOPT: 310.156.3 AMEND: 310.114.1  
06/05/03 AMEND: 2695.2

**Title 11**

10/07/03 AMEND: 1004, 1005  
10/01/03 ADOPT: 995  
09/29/03 ADOPT: 1081(a)(34)  
08/25/03 ADOPT: 977.52 AMEND: 977.20,  
977.43, 977.44, 977.45, 977.50, 977.51  
08/21/03 AMEND: 1005, 1080, 1081  
08/07/03 AMEND: Article 20, Section 51.19  
07/28/03 AMEND: 1007  
07/21/03 ADOPT: 1009, 1083 AMEND: 1001,  
1070, 1071, 1082  
07/08/03 AMEND: 1005  
07/03/03 AMEND: 1081  
06/26/03 AMEND: 1002  
06/06/03 AMEND: 1053

**Title 12**

08/12/03 ADOPT: 506, 507

**Title 13**

08/21/03 ADOPT: 551.10 AMEND: 551.8, 553,  
553.40  
08/11/03 ADOPT: 225.00, 225.03, 225.06, 225.09,  
225.12, 225.15, 225.18, 225.21, 225.24,  
225.27, 225.30, 225.33, 225.36, 225.39,  
225.42, 225.45, 225.48, 225.51, 225.54,  
225.57, 225.60, 225.63, 225.66, 225.69,  
225.72  
07/23/03 AMEND: 25.01  
07/18/03 AMEND: 330.02, 330.06, 330.20,  
330.32, 330.42, 330.44, 330.46, 330.48  
06/26/03 AMEND: 181.00  
06/23/03 ADOPT: 150.04  
06/16/03 ADOPT: 2480

**Title 14**

10/06/03 AMEND: 120.7, 190  
09/26/03 AMEND: 502  
09/18/03 AMEND: 180.2  
09/05/03 AMEND: 12010  
09/04/03 AMEND: 300(a)  
09/02/03 AMEND: 120.7, 190  
08/28/03 AMEND: 671.1  
08/21/03 AMEND: 677  
08/21/03 AMEND: 791.7  
08/14/03 AMEND: 11900  
08/13/03 AMEND: 27.82, 27.83  
08/08/03 ADOPT: 4970.09 AMEND: 4970.00,  
4970.01, 4970.02, 4970.03, 4970.04,  
4970.05, 4970.06, 4970.07, 4970.08,

4970.10, 4970.11, 4970.12, 4970.13,  
4970.14, 4970.15, 4970.16, 4970.17,  
4970.18, 4970.19, 4970.20, 4970.21,  
4970.22, 4970.23, 4970.24, 4970.25,  
4970.2

08/07/03 AMEND: 7.50(b)(5), 7.50(156)

07/22/03 AMEND: 15053, 15064, 15092, 15112,  
15130, 15152, 15378, and Appendix E

07/14/03 AMEND: 708

07/07/03 AMEND: 18464, 18465

06/30/03 AMEND: 230

06/26/03 AMEND: 1.74

06/26/03 AMEND: 791.7, 870.15, 870.17, 870.19,  
870.21,

06/24/03 AMEND: 354, 360, 361, 362, 363, 364

06/24/03 AMEND: 749.2

06/23/03 ADOPT: 25050

06/19/03 AMEND: 7.00

06/17/03 AMEND: 7.50(b)(91.1)

06/16/03 AMEND: 122

06/10/03 AMEND: 601

06/06/03 AMEND: 852.60.1, 852.60.2, 852.60.3,  
852.60.4, 852.61.1, 852.61.2, 852.61.3,  
852.61.4, 852.61.5, 852.61.6, 852.61.7,  
852.61.8, 852.61.9, 852.61.10, 852.61.11,  
852.61.12, 852.62.1, 852.62.2, 852.62.3

06/05/03 ADOPT: 712

#### Title 14, 27

07/10/03 ADOPT: 17225.25, 17380, 17380.1,  
17381, 17381.1, 17381.2, 17380.1,  
17382, 17383, 17383.1, 17383.2,  
17383.3, 17383.4, 17383.5, 17383.6,  
17383.7, 17383.8, 17383.9, 17383.10,  
17384, 17384.1, 17385, 17386, 18223,  
18223.5 AMEND: 18831, 21565 RE-  
PEAL: 17225.

#### Title 15

08/21/03 AMEND: 3075.1

07/08/03 REPEAL: 3901.7.4, 3901.9.1, 3901.9.4,  
3901.17.1, 3901.17.2, 3901.17.3,  
3901.17.4, 3901.17.5, 3901.19.1,  
3901.19.2, 3901.19.3, 3901.19.4,  
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